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Statutes
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S. H. Mchay

Ontario Statutes

ACTS

AFFECTING

ELECTIONS OF MEMBERS

OF THE

LEGISLATIVE ASSEMBLY

OF THE

PROVINCE OF ONTARIO.

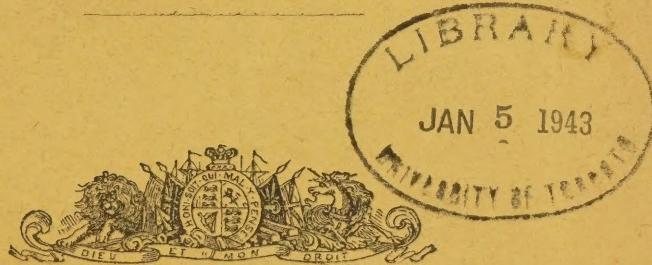
THE ELECTION LAW OF 1863, 32 VIC., CAP. 21;

THE BALLOT ACT OF 1874, 37 VIC., CAP. 5;

THE CONTROVERTED ELECTIONS ACT OF 1871, 34 VIC., CAP. 3;

AN ACT TO AMEND THE LAWS AFFECTING ELECTIONS, 33 VIC., CAP. 3;

AN ACT TO RE-ADJUST THE REPRESENTATION IN THE LEGISLATIVE
ASSEMBLY, 38 VIC., CAP. 2.



TORONTO:

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1874.

MEMORANDUM FOR USE OF DEPUTY RETURNING OFFICERS AT ELECTIONS FOR LEGISLATIVE ASSEMBLY.

It is hoped that you will, upon your appointment, make yourself familiar with the provisions of the various Acts relating to the Elections. To enable you to do this, copies of these Acts will be furnished you by the Returning Officer. This memorandum is not intended in any way to relieve you from the duty of carefully examining them.

Upon your appointment you will take the oath prescribed by Election Act, section thirty-one, and appoint a Poll Clerk, as directed by section thirty-six.

You should see that the printed numbers on the counterfoils are identical with those on the backs of the ballot papers attached to them; and if you find that the numbers on any do not correspond, you should write *along the entire length of the counterfoil and attached ballot paper*, in ink, the words, "Not to be used, as numbers do not agree;" and you will not use any ballot paper so marked, or detach it from the counterfoil. If, during the polling, any counterfoils and attached ballot papers are discovered not to agree in number, you will treat them also in this manner.

Upon receiving the books of ballot papers you will verify, by counting them, the number of ballot papers and of tendered ballot papers which the books given you are stated respectively to contain, and certify the same on the covers of such books.

Upon receiving the copy of the Voters' List you will prefix *Vide Ballot Act, sec. 6.* some number to each name therein, which numbers you must carefully conceal. As these numbers are for the purpose of identification in case a scrutiny should become necessary, no two names should have the same number prefixed.

If the ballot-box is not supplied to you by the Returning Officer previous to the second day before the polling day, you should forthwith procure one to be made of galvanized iron, strong block tin or well seasoned wood of the following dimensions, namely, seven inches by twelve and twelve inches deep; and in case the Returning Officer fails to provide proper compartments, materials for marking ballot papers, and for making up and sealing packages, you will supply the omission. *Vide Ballot Act, sec. 5.*

You will, before commencement of the Poll, placard outside *Vide Ballot Act, sec. 4.* the polling place, and in each polling compartment, printed directions for guidance of voters.

Immediately

MEMORANDUM FOR DEPUTY RETURNING OFFICERS.

*Vide Ballot
Act, sec. 7*

Immediately before the commencement of the Poll you will exhibit the ballot-box to those present, so as to show it is empty, and then seal it in their presence.

You will conduct the Poll in the manner directed by the Election Law of 1868, sections forty-one to forty-three; the Ballot Act, sections eight to seventeen; and the Election Act of 1874, sections thirteen, fourteen and fifteen, with which you will make yourself specially familiar.

No Poll book is now to be kept; the necessary entries are to be made upon the Voters' Lists. However, a list of "tendered votes" must be made, as directed by sections thirteen and fourteen of the Ballot Act, and in the particular places mentioned in section twenty-one of the Election Act of 1874, for which there are no Voters' Lists, a list of the persons voting is to be kept, as required in that section.

*Vide Ballot
Act, sec. 8,
subsec. 6.*

Before delivering a ballot paper to a voter you must sign your name or initials upon the ballot paper and counterfoil; this signature should be upon the back of the ballot paper, as the paper must not be opened for subsequent verification. It will be found most convenient to place the signature immediately below the number on the back of the ballot paper. You must also mark upon the counterfoil the number *upon the Voters' List* of the person to whom the ballot paper is given.

*Vide Ballot
Act, sec. 16.*

Special attention is called to the duty of excluding from the polling place all persons other than the Returning Officer, Poll Clerk, Candidates, or their authorized agents.

*Vide Election
Act 1868, sec. 7,
subsec. 10,
Voters' Lists
Act, sec. 9.*

No person is to be supplied with an ordinary ballot paper unless his name appears on the List of Voters, and no question of qualification can be raised before you; but a person claiming that his name has been improperly omitted from the Voters' List is entitled to mark a tendered ballot paper upon taking the oath prescribed by section fourteen of the Ballot Act. Any person whose name is on the Voters' List is entitled to vote on taking the oath prescribed.

*Vide Election
Act 1868, sec. 41.*

The Poll is to be kept open from 9 A.M. till 5 P.M. Immediately after its close you will count the votes, make up statements and packets, as directed by Ballot Act, sections seventeen and eighteen, and deliver them to the Returning Officer.

*Vide Ballot
Act, sec. 31.*

The Returning Officer, and every Deputy Returning Officer, Clerk or Agent, authorized to attend at the polling place, must, before the opening of the poll, make a statutory declaration of secrecy. If an Agent appears at any polling place subsequent to the opening of the Poll, the Deputy Returning Officer should require him forthwith to take the declaration.

32 VICTORIA, CAP. 21.

AN ACT Respecting Elections of Members of the Legislative Assembly.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

1. Chapter six of the Consolidated Statutes of the late Province of Canada, entitled *An Act respecting Elections of Members of the Legislature*; also an Act passed by the Legislature of the said late Province of Canada, in the twenty-third year of Her Majesty's Reign, chapter seventeen, entitled, *An Act for the more effectual prevention of Corrupt Practices at Elections*; also an Act passed by the said Legislature of the said late Province of Canada, in a session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, chapter thirteen, entitled, *An Act to amend chapter six of the Consolidated Statutes of Canada, intituled "An act respecting Elections of Members of the Legislature,"* and all other acts or enactments conflicting or inconsistent with this Act are hereby repealed, so far as the same relate to the Province of Ontario.

Con. Stat.
Can. chap. 5,
23 Vic. chap.
17, and 29 and
30 Vic. chap.
13, repealed.

WHO SHALL NOT VOTE AT ELECTIONS.

2. The Chancellor and Vice-Chancellors of Ontario, the Chief Justices and Judges of the Courts of Queen's Bench and Common Pleas in Ontario, all County Judges, all Recorders of Cities, all Officers of the Customs of the Dominion of Canada, all Clerks of the Peace, County Attorneys, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown and Agents for the sale of Crown Lands, all Postmasters in Cities and Towns, and all Officers employed in the collection of any duties payable to Her Majesty in the nature of duties of exercise, shall be disqualified and incompetent to vote at any election; and if any public officer or person mentioned in this section votes at any such election, he shall thereby forfeit the sum of two thousand dollars, and his vote at such election shall be null and void.

Persons dis-
qualified from
voting.

None of these
persons can act
as agents for
candidates. See
36 Vic. c. 2, s. 5.

Penalty.

3. No Returning Officer, Deputy Returning Officer, Election Clerk or Poll Clerk, and no person who, at any time, either during the election or before the election, is or has been employed at the said election or in reference thereto, or for the purpose of forwarding the same, by any candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk,

Certain officers
and persons
not to vote.

Clerk, at any polling place at any such election, or in any other capacity whatever, and who has received or expects to receive, either before, during, or after the said election, from any candidate or any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any promise, pledge or security whatever therefor, shall be entitled to vote at any election.

No woman to
vote.

4. No woman is or shall be entitled to vote at any election.

WHO MAY VOTE AT ELECTIONS.

Who may vote
at elections.

5. The following persons, and no other persons, being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified under the preceding sections, or otherwise by law prevented from voting, shall, if duly registered or entered on the last revised and certified list of voters according to the provisions of this Act, be entitled to vote at elections of members to serve in the Legislative Assembly of this Province, that is to say:—

Qualification
of electors.

(1.) Every male person being actually and *bona fide* the owner, tenant or occupant of real property of the value hereinafter next mentioned, and being entered on the then last revised assessment roll, for any city, town, village or township, as the owner, tenant or occupant of such real property of the actual value in cities of four hundred dollars, in towns of three hundred dollars, in incorporated villages of two hundred dollars, and in townships of two hundred dollars, shall be entitled to vote at elections of members of the Legislative Assembly, subject to the provisions hereinafter contained.

Joint owners.

(2.) When any real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each of them shall be deemed rated within this act; otherwise none of them shall be deemed so rated: Provided that

Proviso as to
Algoma,

For further
provisions as to
Algoma see post.

until other provisions shall be made in this behalf, every male British subject having a stated residence in the District of Algoma, for at least one year next previous to the date of the writ of election, and being a householder therein, of the full age of twenty-one years, shall be entitled to vote for a member to represent the said District of Algoma in the Legislative Assembly.

INTERPRETATION.

Interpretation
clause.

6. Wherever the following words occur in any part of this Act, they shall be interpreted as follows:—

"Owner."

(1.) The word "Owner" shall signify proprietor, either in his own

own right, or in the right of his wife, of an estate for life or any greater estate.

(2.) The word "Occupant" shall signify a person *bona fide* "Occupant" occupying property, otherwise than as owner or tenant, either in his own right, or in the right of his wife, but being in possession of such property and enjoying the revenues and profits arising therefrom to his own use; and the word "Tenant" "Tenant" shall include any person who, instead of paying rent in money, is bound to render to the owner any portion of the produce of such property.

(3.) The words "to vote" in this Act shall mean to vote at "To vote." the election of a member of the Legislative Assembly.

REGISTRATION OF VOTERS.

7. The Clerk of each municipality shall, after the final revision and correction of the assessment rolls, in every year, make a correct alphabetical list of all persons entitled to vote therein, with the number of lot or other description of the real property in respect of which each of them is so qualified; and after the division of any municipality into polling sub-divisions as hereinafter provided, the Clerk shall annually make out a similar voters' list for every such sub-division.

2. The Clerk shall certify by oath or affirmation before any Justice of the Peace, to the correctness of every list so by him made out, and shall keep such certified lists among the records of the municipality, and shall deliver a duplicate original thereof, certified by oath or affirmation as aforesaid, to the Clerk of the Peace of the county or union of counties within which the said municipality lies; and all such lists shall be completed and delivered as aforesaid, on or before the fifteenth day of August in each year.

3. The period last mentioned as that within which the said lists shall be completed and delivered, shall be directory only to the Clerk of each municipality, and nothing herein contained shall render null, void or inoperative the said lists, in the event of their not being completed and delivered within the period aforesaid, but the said lists shall be valid and effectual for the purposes of this Act, even though not so completed and delivered by the said period of time.

4. But if any Clerk omits, neglects or refuses to complete or deliver the said lists on or before the fifteenth day of August in each year, according to the directions of this Act, or to perform any of the obligations or formalities herein required of him, such Clerk for each such omission, neglect or refusal, shall incur a penalty of two hundred dollars.

Provision for
enforcing the
making of
lists.

5. In case the Clerk of any municipality does not complete and deliver the lists of voters duly certified by the fifteenth day of August in each year, it shall be the duty of the Clerk of the Peace forthwith to apply summarily to the County Judge or acting Judge of the County Court for the County within which such municipality is situate, to enforce the completion and delivery of such list.

Elector may
apply.

6. The application may also be made by any person entitled to be named on such list as an elector.

Judge may re-
quire clerk or
other person to
appear and
submit to ex-
amination, etc.

7. The Judge shall, on such application, require the Clerk of the municipality, and any other person he sees fit, to appear before him and produce the assessment roll, and any other documents relating thereto, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for enforcing the completion and delivery of the lists without any avoidable loss of time.

Liability for
costs.

8. The Clerk of the municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge.

Judge's order
not to release
penalty.

9. Such proceeding and such order of the Judge shall not in anywise exonerate or release the Clerk from liability to the penalty hereinbefore imposed for neglect or refusal to complete the lists, as hereinbefore mentioned.

No person to
vote unless his
name appears
on the list.

10. No person shall be admitted to vote unless his name appears on the last list of voters, made, certified and delivered to the Clerk of the Peace at least one month before the date of the writ to hold such election; and no question of qualification shall be raised at any such election, except to ascertain whether the party tendering his vote is the same party intended to be designated in the alphabetical list as aforesaid.

When list of
voters, etc., to
be regarded as
finally revised.

11. Any assessment roll shall be understood to be finally revised and corrected when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court, in case of an appeal as provided in the Act respecting the Assessment of Property in Ontario, or when the time during which such appeal may be made has elapsed, and not before.

PROVISIONS RELATIVE TO REGISTRATION.

Proceedings
when list is
shown not to
be correct.

8. If at any time before the issuing of the writ to hold any election for a member to serve in the Legislative Assembly, it is made to appear to the County Judge or acting Judge of the

County

County Court for the County, that the Clerk of any city or other local municipality, in making the alphabetical lists of persons entitled to vote as aforesaid, or the duplicate original thereof, has willfully or inadvertently omitted or inserted any name which ought not to be inserted or omitted, or otherwise altered or falsified the same, or that such alphabetical list or duplicate original is in point of fact not a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, such Judge may require the Clerk of the city or other local municipality, or other officer having the custody of such assessment roll, to appear before him and produce such roll and alphabetical list, and submit to such examination upon oath as may be required of him.

9. At the time and place appointed for the appearance of such person, the Clerk of the Peace shall attend before the County Judge with the duplicate alphabetical list in his possession; and the Judge may, on inspection of such assessment roll and list, and with or without further proof, at his discretion, make such alterations and corrections in such lists as to him seem necessary and proper, in order that the same may be a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, and according to the spirit and meaning of this Act.

10. The Clerk of the Peace and any Clerk of any city or municipality, or part of any municipality, having the custody of the list of voters of any city or municipality, or part of any municipality or place, shall furnish a certified copy of such lists, then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of three cents for every ten voters whose names are on such list.

11. If the Clerk of any city or municipality neglects to make the alphabetical list as required by the seventh section of this Act, or, in making out any certified list of persons entitled to vote, willfully inserts or omits any name which ought not to have been inserted or omitted, or otherwise alters or falsifies the same so that it is not the correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected; or if any Clerk, Returning Officer, Deputy Returning Officer, Clerk of the Peace, or any other person whose duty it is to deliver copies or have the custody of any certified list of voters as aforesaid, willfully makes any alteration, omission or insertion, or in any way falsifies any such certified list or copy, every such person shall incur a penalty of two thousand dollars.

RETURNING OFFICERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.

12. Subject to the provision hereinafter made as to counties Sheriffs to be divided

returning officers for counties, unions of counties, cities, etc.,

and if no sheriff, the registrar.

Provisions where more than one person who may act as returning officers.

divided into ridings, the sheriffs, for the time being, of the several counties and unions of counties for judicial purposes, shall be *ex officio* Returning Officers for the counties and unions of counties for purposes of representation in the Legislative Assembly, over which or over any county in which their authority as such Sheriffs extends, and in which they respectively reside, and also for the respective cities and towns sending members to the said Assembly and lying within the local limits of such counties or unions of counties; and for the several other counties or unions of counties for the purpose of representation in the said Assembly, for which no Sheriff is, under the foregoing provisions *ex officio* the Returning Officer, the Registrars of deeds, for the time being, for such counties or unions of counties, or of any of the counties included in such unions of counties, shall be *ex officio* Returning Officers.

2. If in any case there is more than one person who may, under the foregoing provisions, be *ex officio* Returning Officer for any place, then the writ of election may be directed to either of them, and the person to whom it is directed shall alone act as such Returning Officer; and if in any case it happens that writs of election issue at the same time, or so nearly at the same time that the one is not returnable before the other or others issue, for several places for which the same person would, under the foregoing provisions, be *ex officio* Returning Officer, then only one of such writs shall be directed to such person, and the other or others to such other person or persons, qualified in the manner provided by the fourteenth section of this Act, as the Lieutenant Governor shall appoint to be the Returning Officer or officers.

Provision with regard to counties divided into ridings.

3. In each of the counties in Ontario which are divided into ridings the Sheriff or Registrar of deeds, who would, under the preceding provisions of this section, be the Returning Officer for such County, shall be the Returning Officer for the Riding thereof in which he resides; and where there is a Sheriff who is Returning Officer for one Riding, the Registrar or Registrars of deeds for the other riding or ridings shall be *ex officio* Returning Officer for such other riding or ridings respectively, subject always to the preceding provisions of this section: Provided always, that the Sheriff of the United Counties of Leeds and Grenville shall be *ex officio* Returning Officer for the North Riding of Leeds and Grenville; that the Registrar of deeds for the County of Leeds shall be *ex officio* Returning Officer for the South Riding of Leeds; and that the Registrar of deeds for the County of Grenville shall be *ex officio* Returning Officer for the South Riding of Grenville.

Provision as to Leeds and Grenville.

In case no one *ex officio* re-

43. If in any case it happens that there is no person, who, under the provisions of this Act, can be *ex officio* Returning Officer

Officer for any place for which an election is to be held, or the person who would or might be such Returning Officer is absent from the Province, or incapacitated from sickness or otherwise from performing the duties of Returning Officer, then the Lieutenant Governor may appoint any person qualified under this Act to be Returning Officer for such place.

14. No person, other than a Sheriff or Registrar aforesaid, shall be so appointed or act as Returning Officer for any county, riding, city or town, or other electoral division, in this Province, unless at the time of his appointment such person is an elector for such county, riding, city or town, or other electoral division, then duly and legally qualified to vote at the election of a member for the same, nor unless he has continually resided therein during at least twelve months immediately preceding his appointment; and any person who, being so appointed, acts as Returning Officer for any one of the said counties, ridings, cities or towns, or any other electoral division, without possessing the qualifications hereinbefore required, shall thereby incur a penalty of two hundred dollars.

15. None of the persons hereinafter designated in this section shall, in any case, be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say:—

First. The Members of the Executive Council;

Second. The Members of the Parliament of the Dominion of Canada;

Third. The Members of the Legislative Assembly;

Fourth. Any Minister, Priest or Ecclesiastic, under any form or profession of religious faith or worship;

Fifth. The Judges of the Superior Courts, as well as the Judges of the County Courts;

Sixth. All persons who have served in the Legislature of this Province as members of the Legislative Assembly, in the session next immediately preceding the election in question, or in the then present session, if the election takes place during a session of the said Legislature.

2. If any one of the persons above mentioned in this section is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of two hundred dollars.

Exempted persons.

16. None of the persons hereinafter mentioned in this section, unless they are Sheriffs or Registrars, or Town Clerks, or Assessors, shall be obliged to act as Returning Officer, or Deputy Returning Officer, or as Election Clerk or Poll Clerk, that is to say:—

First. Physicians and Surgeons;

Second. Millers;

Third. Postmasters;

Fourth. Persons being sixty years of age, or upwards;

Fifth. Persons who have previously served as Returning Officers.

Penalty.

17. Every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any such election as aforesaid, after having received the writ of election, shall, for such refusal, incur a penalty of two hundred dollars; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed such exemption by letter to the Clerk of the Crown in Chancery, forwarded within two days next after the receipt of such writ of election, setting forth the grounds of such exemption.

GENERAL ELECTIONS.

Governor to fix the days of election and polling.

18. Whenever, after the passing of this Act, a new Legislative Assembly may be called, and a general election held for that purpose, the Lieutenant Governor in Council shall fix the day for holding such elections, and shall also fix the day on which the polling shall take place, in cases where a poll is demanded and granted.

The voting is to be by Ballot.
See 37 Vic. c. 5, s. 1.

All general elections on same day.

Polling on same day.

2. At every such general election, the elections for each and every county, riding, city, town or other electoral division throughout the Province, shall take place and be held on one and the same day; and the polling at all such elections, where polls have been demanded and granted, shall also take place on one and the same day; and the respective days so fixed for holding such elections, and for opening and holding the polls, shall be stated and inserted in the proclamation calling such general election, and in the several writs of election in that behalf.

Time for holding elections and for polling.

3. The day so to be fixed as aforesaid for holding the said elections shall not be more than twenty days, nor less than sixteen days from the date of the writs of election; and the day for

32 VICTORIA, CAP. 21.

AN ACT Respecting Elections of Members of the Legislative Assembly.

[Assented to 23rd January, 1869.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

1. Chapter six of the Consolidated Statutes of the late Province of Canada, entitled *An Act respecting Elections of Members of the Legislature*; also an Act passed by the Legislature of the said late Province of Canada, in the twenty-third year of Her Majesty's Reign, chapter seventeen, entitled, *An Act for the more effectual prevention of Corrupt Practices at Elections*; also an Act passed by the said Legislature of the said late Province of Canada, in a session held in the twenty-ninth and thirtieth years of Her Majesty's Reign, chapter thirteen, entitled, *An Act to amend chapter six of the Consolidated Statutes of Canada*, intituled "An act respecting Elections of Members of the Legislature," and all other acts or enactments conflicting or inconsistent with this Act are hereby repealed, so far as the same relate to the Province of Ontario.

Con. Stat.
Can., chap. 5.
23 Vic. chap.
17, and 29 and
30 Vic. chap.
13, repealed.

WHO SHALL NOT VOTE AT ELECTIONS.

2. The Chancellor and Vice-Chancellors of Ontario, the Chief Justices and Judges of the Courts of Queen's Bench and Common Pleas in Ontario, all County Judges, all Recorders of Cities, all Officers of the Customs of the Dominion of Canada, all Clerks of the Peace, County Attorneys, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown and Agents for the sale of Crown Lands, all Postmasters in Cities and Towns, and all Officers employed in the collection of any duties payable to Her Majesty in the nature of duties of exercise, shall be disqualified and incompetent to vote at any election; and if any public officer or person mentioned in this section votes at any such election, he shall thereby forfeit the sum of two thousand dollars, and his vote at such election shall be null and void.

Persons dis-
qualified from
voting.

*None of these
persons can act
as agents for
candidates. See
36 Vic. c. 2, s. 5.*

Penalty.

3. No Returning Officer, Deputy Returning Officer, Election Clerk or Poll Clerk, and no person who, at any time, either during the election or before the election, is or has been employed at the said election or in reference thereto, or for the purpose of forwarding the same, by any candidate or by any person whomsoever, as Counsel, Agent, Attorney or Clerk,

Certain officers
and persons
not to vote.

Clerk, at any polling place at any such election, or in any other capacity whatever, and who has received or expects to receive, either before, during, or after the said election, from any candidate or any person whomsoever, for acting in any such capacity as aforesaid, any sum of money, fee, office, place or employment, or any premise, pledge or security whatever therefor, shall be entitled to vote at any election.

No women to
vote.

4. No woman is or shall be entitled to vote at any election.

WHO MAY VOTE AT ELECTIONS.

Who may vote
at elections.

5. The following persons, and no other persons, being of the full age of twenty-one years, and subjects of Her Majesty by birth or naturalization, and not being disqualified under the preceding sections, or otherwise by law prevented from voting, shall, if duly registered or entered on the last revised and certified list of voters according to the provisions of this Act, be entitled to vote at elections of members to serve in the Legislative Assembly of this Province, that is to say:—

Qualification
of electors.

(1.) Every male person being actually and *bona fide* the owner, tenant or occupant of real property of the value hereinafter next mentioned, and being entered on the then last revised assessment roll, for any city, town, village or township, as the owner, tenant or occupant of such real property of the actual value in cities of four hundred dollars, in towns of three hundred dollars, in incorporated villages of two hundred dollars, and in townships of two hundred dollars, shall be entitled to vote at elections of members of the Legislative Assembly, subject to the provisions hereinafter contained.

Joint owners.

(2.) When any real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each of them shall be deemed rated within this act; otherwise none of them shall be deemed so rated: Provided that until other provisions shall be made in this behalf, every male

Province as to
Algoma.

For further
provisions as to
Algoma see post.

British subject having a stated residence in the District of Algoma, for at least one year next previous to the date of the writ of election, and being a householder therein, of the full age of twenty-one years, shall be entitled to vote for a member to represent the said District of Algoma in the Legislative Assembly.

INTERPRETATION.

Interpretation
clause.

6. Wherever the following words occur in any part of this Act, they shall be interpreted as follows:—

"Owner."

(1.) The word "Owner" shall signify proprietor, either in his own

own right, or in the right of his wife, of an estate for life or any greater estate.

(2.) The word "Occupant" shall signify a person *bona fide* "Occupant" occupying property, otherwise than as owner or tenant, either in his own right, or in the right of his wife, but being in possession of such property and enjoying the revenues and profits arising therefrom to his own use; and the word "Tenant" "Tenant" shall include any person who, instead of paying rent in money, is bound to render to the owner any portion of the produce of such property.

(3.) The words "to vote" in this Act shall mean to vote at "To vote." the election of a member of the Legislative Assembly

REGISTRATION OF VOTERS.

7. The Clerk of each municipality shall, after the final revision and correction of the assessment rolls, in every year, make a correct alphabetical list of all persons entitled to vote therein, with the number of lot or other description of the real property in respect of which each of them is so qualified; and after the division of any municipality into polling sub-divisions as hereinafter provided, the Clerk shall annually make out a similar voters' list for every such sub-division.

2. The Clerk shall certify by oath or affirmation before any Justice of the Peace, to the correctness of every list so by him made out, and shall keep such certified lists among the records of the municipality, and shall deliver a duplicate original thereof, certified by oath or affirmation as aforesaid, to the Clerk of the Peace of the county or union of counties within which the said municipality lies; and all such lists shall be completed and delivered as aforesaid, on or before the fifteenth day of August in each year.

3. The period last mentioned as that within which the said lists shall be completed and delivered, shall be directory only to the Clerk of each municipality, and nothing herein contained shall render null, void or inoperative the said lists, in the event of their not being completed and delivered within the period aforesaid, but the said lists shall be valid and effectual for the purposes of this Act, even though not so completed and delivered by the said period of time.

4. But if any Clerk omits, neglects or refuses to complete or deliver the said lists on or before the fifteenth day of August in each year, according to the directions of this Act, or to perform any of the obligations or formalities herein required of him, such Clerk for each such omission, neglect or refusal, shall incur a penalty of two hundred dollars.

Provision for
enforcing the
making of
lists.

5. In case the Clerk of any municipality does not complete and deliver the lists of voters duly certified by the fifteenth day of August in each year, it shall be the duty of the Clerk of the Peace forthwith to apply summarily to the County Judge or acting Judge of the County Court for the County within which such municipality is situate, to enforce the completion and delivery of such list.

Elector may
apply,

6. The application may also be made by any person entitled to be named on such list as an elector.

Judge may re-
quire clerk or
other person to
appear and
submit to ex-
amination, etc.

7. The Judge shall, on such application, require the Clerk of the municipality, and any other person he sees fit, to appear before him and produce the assessment roll, and any other documents relating thereto, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for enforcing the completion and delivery of the lists without any avoidable loss of time.

Liability for
costs.

8. The Clerk of the municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge.

Judge's order
not to release
penalty.

9. Such proceeding and such order of the Judge shall not in anywise exonerate or release the Clerk from liability to the penalty hereinbefore imposed for neglect or refusal to complete the lists, as hereinbefore mentioned.

No person to
vote unless his
name appears
on the list.

10. No person shall be admitted to vote unless his name appears on the last list of voters, made, certified and delivered to the Clerk of the Peace at least one month before the date of the writ to hold such election; and no question of qualification shall be raised at any such election, except to ascertain whether the party tendering his vote is the same party intended to be designated in the alphabetical list as aforesaid.

When list of
voters, etc., to
be regarded as
finally revised.

11. Any assessment roll shall be understood to be finally revised and corrected when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court, in case of an appeal as provided in the Act respecting the Assessment of Property in Ontario, or when the time during which such appeal may be made has elapsed, and not before.

PROVISIONS RELATIVE TO REGISTRATION.

Proceedings
when list is
shown not to
be correct.

8. If at any time before the issuing of the writ to hold any election for a member to serve in the Legislative Assembly, it is made to appear to the County Judge or acting Judge of the

County

County Court for the County, that the Clerk of any city or other local municipality, in making the alphabetical lists of persons entitled to vote as aforesaid, or the duplicate original thereof, has willfully or inadvertently omitted or inserted any name which ought not to be inserted or omitted, or otherwise altered or falsified the same, or that such alphabetical list or duplicate original is in point of fact not a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, such Judge may require the Clerk of the city or other local municipality, or other officer having the custody of such assessment roll, to appear before him and produce such roll and alphabetical list, and submit to such examination upon oath as may be required of him.

9. At the time and place appointed for the appearance of such person, the Clerk of the Peace shall attend before the County Judge with the duplicate alphabetical list in his possession; and the Judge may, on inspection of such assessment roll and list, and with or without further proof, at his discretion, make such alterations and corrections in such lists as to him seem necessary and proper, in order that the same may be a correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected, and according to the spirit and meaning of this Act.

10. The Clerk of the Peace and any Clerk of any city or municipality, or part of any municipality, having the custody of the list of voters of any city or municipality, or part of any municipality or place, shall furnish a certified copy of such lists, then last revised and corrected, to any person who shall require such copy, on being paid for the same by such person at the rate of three cents for every ten voters whose names are on such list.

11. If the Clerk of any city or municipality neglects to make the alphabetical list as required by the seventh section of this Act, or, in making out any certified list of persons entitled to vote, willfully inserts or omits any name which ought not to have been inserted or omitted, or otherwise alters or falsifies the same so that it is not the correct list of all persons entitled to vote according to the assessment roll as finally revised and corrected; or if any Clerk, Returning Officer, Deputy Returning Officer, Clerk of the Peace, or any other person whose duty it is to deliver copies or have the custody of any certified list of voters as aforesaid, willfully makes any alteration, omission or insertion, or in any way falsifies any such certified list or copy, every such person shall incur a penalty of two thousand dollars.

RETURNING OFFICERS OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.

12. Subject to the provision hereinafter made as to counties divided Sheriffs to be

returning officers for counties, unions of counties, cities, etc.,

and if no sheriff, the registrar.

Provisions where more than one person who may act as returning officers.

divided into ridings, the sheriffs, for the time being, of the several counties and unions of counties for judicial purposes, shall be *ex officio* Returning Officers for the counties and unions of counties for purposes of representation in the Legislative Assembly, over which or over any county in which their authority as such Sheriffs extends, and in which they respectively reside, and also for the respective cities and towns sending members to the said Assembly and lying within the local limits of such counties or unions of counties; and for the several other counties or unions of counties for the purpose of representation in the said Assembly, for which no Sheriff is, under the foregoing provisions *ex officio* the Returning Officer, the Registrars of deeds, for the time being, for such counties or unions of counties, or of any of the counties included in such unions of counties, shall be *ex officio* Returning Officers.

2. If in any case there is more than one person who may, under the foregoing provisions, be *ex officio* Returning Officer for any place, then the writ of election may be directed to either of them, and the person to whom it is directed shall alone act as such Returning Officer; and if in any case it happens that writs of election issue at the same time, or so nearly at the same time that the one is not returnable before the other or others issue, for several places for which the same person would, under the foregoing provisions, be *ex officio* Returning Officer, then only one of such writs shall be directed to such person, and the other or others to such other person or persons, qualified in the manner provided by the fourteenth section of this Act, as the Lieutenant Governor shall appoint to be the Returning Officer or officers.

Provision with regard to counties divided into ridings.

3. In each of the counties in Ontario which are divided into ridings the Sheriff or Registrar of deeds, who would, under the preceding provisions of this section, be the Returning Officer for such County, shall be the Returning Officer for the Riding thereof in which he resides; and where there is a Sheriff who is Returning Officer for one Riding, the Registrar or Registrars of deeds for the other riding or ridings shall be *ex officio* Returning Officer for such other riding or ridings respectively, subject always to the preceding provisions of this section: Provided always, that the Sheriff of the United Counties of Leeds and Grenville shall be *ex officio* Returning Officer for the North Riding of Leeds and Grenville; that the Registrar of deeds for the County of Leeds shall be *ex officio* Returning Officer for the South Riding of Leeds; and that the Registrar of deeds for the County of Grenville shall be *ex officio* Returning Officer for the South Riding of Grenville.

Proviso as to Leeds and Grenville.

In case no one *ex officio* re-

13. If in any case it happens that there is no person, who, under the provisions of this Act, can be *ex officio* Returning Officer

Officer for any place for which an election is to be held, or the person who would or might be such Returning Officer is absent from the Province, or incapacitated from sickness or otherwise from performing the duties of Returning Officer, then the Lieutenant Governor may appoint any person qualified under this Act to be Returning Officer for such place.

14. No person, other than a Sheriff or Registrar aforesaid, shall be so appointed or act as Returning Officer for any county, riding, city or town, or other electoral division, in this Province, unless at the time of his appointment such person is an elector for such county, riding, city or town, or other electoral division, then duly and legally qualified to vote at the election of a member for the same, nor unless he has continually resided therein during at least twelve months immediately preceding his appointment; and any person who, being so appointed, acts as Returning Officer for any one of the said counties, ridings, cities or towns, or any other electoral division, without possessing the qualifications hereinbefore required, shall thereby incur a penalty of two hundred dollars.

15. None of the persons hereinafter designated in this section shall, in any case, be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say:—

First. The Members of the Executive Council;

Second. The Members of the Parliament of the Dominion of Canada;

Third. The Members of the Legislative Assembly;

Fourth. Any Minister, Priest or Ecclesiastic, under any form or profession of religious faith or worship;

Fifth. The Judges of the Superior Courts, as well as the Judges of the County Courts;

Sixth. All persons who have served in the Legislature of this Province as members of the Legislative Assembly, in the session next immediately preceding the election in question, or in the then present session, if the election takes place during a session of the said Legislature.

2. If any one of the persons above mentioned in this section is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of two hundred dollars.

Exempted persons.

16. None of the persons hereinafter mentioned in this section, unless they are Sheriffs or Registrars, or Town Clerks, or Assessors, shall be obliged to act as Returning Officer, or Deputy Returning Officer, or as Election Clerk or Poll Clerk, that is to say :—

First. Physicians and Surgeons ;

Second. Millers ;

Third. Postmasters ;

Fourth. Persons being sixty years of age, or upwards ;

Fifth. Persons who have previously served as Returning Officers.

Penalty.

17. Every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any such election as aforesaid, after having received the writ of election, shall, for such refusal, incur a penalty of two hundred dollars ; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed such exemption by letter to the Clerk of the Crown in Chancery, forwarded within two days next after the receipt of such writ of election, setting forth the grounds of such exemption.

GENERAL ELECTIONS.

Governor to fix the days of election and polling.

The voting is to be by Ballot.
See 37 Vic. c. 5, e. 1.

All general elections on same day.

Polling on same day.

Time for holding elections and for polling.

18. Whenever, after the passing of this Act, a new Legislative Assembly may be called, and a general election held for that purpose, the Lieutenant Governor in Council shall fix the day for holding such elections, and shall also fix the day on which the polling shall take place, in cases where a poll is demanded and granted.

2. At every such general election, the elections for each and every county, riding, city, town or other electoral division throughout the Province, shall take place and be held on one and the same day ; and the polling at all such elections, where polls have been demanded and granted, shall also take place on one and the same day ; and the respective days so fixed for holding such elections, and for opening and holding the polls, shall be stated and inserted in the proclamation calling such general election, and in the several writs of election in that behalf.

3. The day so to be fixed as aforesaid for holding the said elections shall not be more than twenty days, nor less than sixteen days from the date of the writs of election ; and the day for

for holding the polls shall not be more than eight, nor less than six days after the day for holding the said elections.

4. There shall be forty days between the teste and the ^{Teste and return.} return of every writ of election: Provided always, that in the case of the District of Algoma, there shall be ninety days ^{Proviso as to Algoma.} between the teste and return of any writ of election issued between the fifteenth day of October and the fifteenth day of March following; that the days for opening the election and for opening and holding the polls, and for taking the votes of the electors, shall be fixed by the Returning Officer, and stated and set forth in his proclamation in that behalf; and that such polls shall be opened and held only at the following places in the said District, namely; Killarney, Spanish River, Little Current, Bruce Mines, Sault Ste. Marie, and (in case the polling shall take place between the first day of May and the first day of November following) at Fort William.

ISSUE OF THE WRIT.

19. Whenever a writ of election is issued for the election of a member to serve in the Legislative Assembly of this Province, the same shall be addressed and directed to the Sheriff or Registrar who is *ex officio* the Returning Officer for the electoral division, or to the person appointed by the Lieutenant Governor, if such appointment is made according to the requirements of this Act.

Writs to be addressed to returning officers.

PROCEEDINGS ON THE RECEIPT OF THE WRIT.

For other proceedings see 37 Vic. c. 5, sec. 2, subsecs. 1, 2, 3, 5, & 6; see also sec. 28 of this Act.

20. Each Returning Officer shall, on receiving the writ of election, forthwith endorse thereon the date of its reception.

2. Within three days next after the day of such reception, he shall, by a proclamation under his hand, in the English language and in the form A of the Schedule annexed to this Act, declare the place, day and hour, at which the election shall be held.

3. He shall cause the said proclamation to be posted up, in the manner hereinafter prescribed, at least eight days before the day fixed for holding the said election, which day so fixed shall be called the Nomination Day.

4. The place at which such election shall be held, shall be fixed by the Returning Officer, and shall be in the public place most central and most convenient for the great body of the electors in the county, riding, city or town or other electoral division for which he is acting as such Returning Officer, and the hour to be fixed shall be between eleven o'clock in the forenoon and two o'clock in the afternoon, of the day so fixed for opening such election as aforesaid.

Polling day.

5. In and by the proclamation aforesaid, the Returning Officer shall also declare the day on which, in case a poll be demanded and granted as hereinafter provided, such poll shall be opened in conformity to this Act, in each city, township, or union of townships or ward, or part of township or ward, (as the case may be) for taking and recording the votes of the electors according to law.

Place of posting up proclamation in cities, etc.

6. If the election be for a city or town, he shall cause the said proclamation to be posted up at the city or town hall, and in some public place in each ward of such city or town.

In counties, etc.

7. If the election be for a county or riding, he shall cause the said proclamation to be posted up at the town hall or other public place where the meetings of the municipal council of each township are held, at every post office in the electoral division, and at least at one public place in every polling subdivision.

How the eight days' notice reckoned.

8. Neither the day of nomination nor that of the posting up of such proclamation shall be included within the said eight days.

Penalty.

9. Any Returning Officer refusing or neglecting to cause such proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of two hundred dollars.

Oath of returning officer.

21. Each Returning Officer shall, before the day fixed for opening the election, take and subscribe before a Justice of the Peace for the county or district in which he resides, the oath number one in the schedule to this Act; and such Justice of the Peace shall (under a penalty of forty dollars, in case of refusal) deliver to him, under the hand of such Justice, and in the form B of the said schedule, a certificate of his having taken the said oath, which, together with the said certificate, shall be annexed to his return to the writ of election; and any Returning Officer who refuses or neglects either to take and subscribe the said oath, or to annex it with the said certificate to his return, shall, for such refusal or neglect, incur a penalty of forty dollars.

Certificate thereof.**Penalty.**

22. Each Returning Officer shall, before the nomination day, appoint, by a commission under his hand, in the form C of the said schedule, a fit person to be his Election Clerk, and to assist him in the performance of his duties as Returning Officer.

Election

2. Such election clerk shall take and subscribe, either before

a Justice of the Peace for the county or district in which he resides, or before the said Returning Officer, the oath number two in the said schedule; and, of his having taken such oath, there shall be delivered to him, by the person before whom he has been sworn and under his hand, a certificate in the form D of the said schedule.

3. Any person so appointed as Election Clerk, who refuses to accept the said office, or who, having accepted it, refuses or neglects to take and subscribe the said oath, or to perform the duties of Election Clerk, shall, for such refusal or neglect, incur a penalty of forty dollars.

4. The Returning Officer may, either before or after the nomination day, appoint, in the manner above mentioned, another person as his Election Clerk, whensoever the case requires, either by reason of the death, illness or absence of any Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise; and such new Election Clerk so appointed shall perform all the duties, and comply with all the obligations of his office, under the same penalty, in case of refusal or neglect on his part, as is hereinbefore imposed in like cases.

5. Whenever any Returning Officer becomes unable to perform the duties of his office, whether by death, illness, absence or otherwise, the Election Clerk, so by him appointed as aforesaid, shall, under the same penalties in case of refusal or neglect on his part as are hereinabove imposed in like cases on the Returning Officer, act as, and shall be, Returning Officer for the said election, and shall perform all the duties and obligations of that office, in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new oath for that purpose; and, in any such case, the Election Clerk shall annex to his return to the writ of election the said certificate of the oath he has taken as Election Clerk, and also the oath itself.

PROCEEDINGS ON THE NOMINATION DAY.

23. Every Returning Officer shall, at the time and place fixed as aforesaid for opening the election, proceed to the hustings (which shall be held in the open air, at such place as that all the electors may have free access thereto), and shall make, or cause to be made, in the English language, in the presence of the electors there assembled, a proclamation in the form E of the said schedule, and shall then and there read, or cause to be read publicly, in the English language, the writ of election, and his commission as Returning Officer when he has been appointed Returning Officer by special commission for such purpose, and shall then require the electors there present to name the person or persons whom they wish to choose at the said election to represent them in the said Legislative Assembly in obedience to the said writ of election.

No show of hands; if poll demanded to be granted.

2. No show of hands shall be taken on the nomination day, but if at the nomination more than one candidate be proposed, and a poll is then and there demanded by or on behalf of any one or more of such candidates, the Returning Officer shall grant a poll for taking and recording the votes of the electors.

Penalty.

3. Any elector present, or any candidate in person, or by his agent, may demand a poll, and when at any such election a poll is demanded, if the Returning Officer neglect or refuse to grant the same, the election shall be *ipso facto* null; and such Returning Officer shall, for such refusal or neglect, incur a penalty of one thousand dollars.

If only one candidate proposed within one hour, he to be declared elected.

4. If only one candidate be nominated, or the electors there and then present agree in the choice so to be made of the person to represent them, the Returning Officer shall, at the expiration of one hour from the nomination of such candidate, and not before, close the election, and shall then and there openly proclaim the person so chosen to be duly elected.

See for other proceedings 36 Vic. c. 2, sec. 8.

AGENTS FOR ABSENT CANDIDATES.

Who may act as agent of candidate.

Candidates may themselves undertake duties of an agent, 37 Vic. c. 5, sec. 33; see also 37 Vic. c. 5, sec. 34.

24. At any election as aforesaid, whether on the day of the opening, or at the polling places opened and kept for such election, in the absence of any person authorized in writing to act as agent for any absent candidate, any elector, in the interest of such candidate, may, at any time during the election, declare himself to be and may act as the agent of any such candidate without producing any special authority in writing for that purpose.

SUBDIVISIONS FOR POLLING PLACES.

Cities, etc., to be divided into polling subdivisions,

This section is inserted as amended by 33 Vic. c. 4, sec. 1.

25. Every city, town, ward or township or incorporated village having more than two hundred qualified voters therein, shall be divided by well defined boundaries, such as streets, side lines, concession lines or the like, in the most convenient manner into polling sub-divisions by by-law of the municipal council having jurisdiction over the locality, and in such manner that the number of qualified electors in the several polling sub-divisions shall be as nearly equal as may be, and shall not in any one exceed two hundred; and such sub-division shall be made immediately after the final revision and correction of the assessment roll of each such city, town, ward, township, or incorporated village which shall first happen after the passing of this Act.

and again divided when necessary.

26. Whenever the number of qualified voters in any such polling sub-division shall increase so as to exceed two hundred, or whenever the municipal council shall consider that the convenience of the electors would be promoted by a new and different sub-division, such city, town, ward or township shall be again

again in like manner divided into polling sub-divisions so as to conform to the intent and meaning of this Act, and so again, from time to time, as like occasion shall require, the municipal council using on all occasions the then last revised and corrected assessment roll for that purpose: Provided *Proviso.* always, that at any time within two months after the filing of such by-law, an appeal shall lie from any such sub-division at the instance of any five of the electors, to the Judge of the County Court, who shall promptly correct such sub-division so as to conform to the true intent and meaning of this Act.

2. The said sub-divisions shall be numbered consecutively *Subdivisions to be numbered.* in and by the by-law by which they are established, and a copy of such by-law certified under the seal of the corporation to be a true and correct copy, and signed by the head or clerk of the municipality, shall be forthwith, after the making thereof, transmitted to and filed in the office of the Clerk of the Peace of the county or union of counties within which such municipality is situate.

3. In case of failure on the part of any municipal council to divide any city, town or other local municipality into polling sub-divisions, proportioned to the number of electors, as hereinbefore provided, or in case the time to appeal from the division should not have expired before the reception of the writ, the Returning Officer shall provide for as many polling places for polling the votes of the electors in such city, town or other local municipality, as shall correspond, as nearly as may be, with the number of polling places which would have been required if the said city, town or other local municipality had been sub-divided into the proper number of polling sub-divisions.

4. Whenever polling sub-divisions shall have been established by the municipal council, or shall have been provided for by the Returning Officer, a poll shall be opened and held, in every such sub-division, for taking the votes of the electors therein, and a copy or duplicate of the voters' list for the sub-division, shall be furnished for each polling place appointed therefor.

27. Whenever it appears by the assessment roll that any person is assessed for property within the municipality sufficient to entitle him to vote, but that it lies partly within the limits of one of such sub-divisions and partly within another or others, the clerk shall enter his name on the list of voters for each or every sub-division in which any part of such property is situate, and such person may vote at the polling place for either of such sub-divisions in his discretion; but no person shall vote or offer to vote at more than one polling place in any county, riding, city or town or incorporated village, at any election, under a penalty of two hundred dollars.

Copy of voters' list to be furnished for each polling place.

*For form of
Voters' list
Vide post.*

*Provision
when property
partly in one
subdivision
and partly in
another.*

Penalty.

Polling place
in each polling
subdivision.

Proviso.

*For other pro-
ceedings when a
Poll is granted
see 37 Vic. c. 5,
secs. 3, 4.*

Day of opening
the poll to be
proclaimed.

Poll not to be
held on Sun-
days or certain
holidays.

Hours of vot-
ing.

*This Section is
inserted as
amended by 37
V. c. 5, sec. 39.*

Their oath of
office, etc.

28. The Returning Officer, on receiving the writ of election, shall fix one polling place for each sub-division into which such city, town or other local municipality may be subdivided, in the most central and convenient place for the electors of such sub-division: Provided the number of polling places, now required by law in cities and towns, shall in no case be diminished, and that the polling places shall be at least two hundred yards distant from each other in cities, towns and incorporated villages, and at least one mile distant from each other in other local municipalities; but the building in which the poll is held, shall not be a tavern or place of public entertainment; and there shall be free access thereto to every elector.

PROCEEDINGS WHEN A POLL IS GRANTED.

29. When, at any such election, a poll has been granted, the Returning Officer, immediately after having granted such poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the places at which the poll shall be so opened in each polling subdivision or ward (as the case may be), for the purpose of then and there taking and recording the votes of the electors according to law.

30. The day to be fixed for opening the poll as aforesaid, shall not be a Sunday, New Year's Day, Good Friday, Christmas Day, the First Day of July, or the Birthday of the Sovereign; and the poll shall be opened and held on that day only, so that there be but one and the same day's polling at any special or general election.

2. On the day of polling the voting shall commence at nine o'clock in the forenoon, and shall finish at five in the afternoon of the same day.

APPOINTMENT OF DEPUTY RETURNING OFFICERS.

31. For the purpose of taking the votes at any such election, the Returning Officer shall, by a commission under his hand and in the form F of the said schedule, appoint some suitable person to be Deputy Returning Officer for each such polling subdivision in which a polling place is to be opened and kept, and shall thereby require such Deputy Returning Officer to open and hold the poll according to law, at the time and place fixed as hereinbefore provided, and at such poll to take and record in the voters' list, the particulars relating to electors voting at the said polling place, which by the Ballot Act of 1874, he is directed to take and record.

2. Each Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for

for the county or district in which he resides, or before the Returning Officer, the oath number three in the said schedule, of the taking of which oath there shall be delivered to him, by the person before whom he has taken it, a certificate under the hand of such person in the form G of the said schedule.

3. Any person so appointed a Deputy Returning Officer who refuses to accept the said office, or who, after having accepted the same, refuses or neglects either to take and subscribe the said oath or to perform the duties of a Deputy Returning Officer, shall, for such neglect or refusal, incur a penalty of one hundred dollars.

32. In townships divided into polling subdivisions under this Act, the township Clerk shall be appointed by the Returning Officer to be Deputy Returning Officer for the subdivision in which the town hall is situated, if there be a town hall in such township, but if there be no such town hall, then for the subdivision in which the first meeting of the council of the municipality for that year was held; and in case of the absence, sickness or death of the township Clerk, the township Assessor or Collector shall be appointed such Deputy Returning Officer.

2. Any township or part of a township in Ontario which is by law made part of a town for the purpose of representation, although not otherwise within the limits thereof, shall, for the purpose of holding an election of a member of the Legislative Assembly, be dealt with, except as to the qualification of electors, as if it were a ward of such town.

33. The Returning Officer may appoint in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require such appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise; and such new Deputy Returning Officer so appointed shall perform all the duties and obligations of the said office, under the same penalties in case of refusal or neglect on his part, as are hereinabove imposed in like cases.

PROCEEDINGS PRELIMINARY TO POLLING.

Lists of Electors.

For other "Proceedings Preliminary to the Poll," see 37 V., c. 5, secs. 1-6.

34. Every Returning Officer, upon granting a poll at any election, shall ascertain that every Deputy Returning Officer is in possession of a certified copy of the proper list of voters for the electoral subdivision for which he is Deputy Returning Officer.

Returning officer to see that his deputies are furnished with voters' lists;
For duty of deputy returning officer on receipt
see 37 V., c. 5, s. 6.

35. *see 37 V., c. 5, s. 6.*

to procure lists
when required;
*For form of
Voters' list
Vide post.*

35. If the Clerk of the municipality is not the Deputy Returning Officer, or if the copy in the possession of the Clerk has been lost or destroyed, the Returning Officer shall procure from the Clerk of the Peace a copy certified by him to be correct of the proper list of voters for each polling subdivision filed in his office, and shall cause the same to be delivered to the Deputy Returning Officer.

and deliver
poll books.

*For "poll
book" read
"Voters' list"
vide 37 V. c. 5
sec. 39 subsec. 8.*

2. The Returning Officer shall deliver to each Deputy Returning Officer the necessary poll book or poll books for polling and recording the votes of the electors.

Appointment and general duties of Poll Clerks.

Deputy re-
turning offi-
cer to appoint
poll clerks,
who must be
sworn.

36. Every Deputy Returning Officer shall, by a commission under his hand and in the form H of the said schedule, appoint a Poll Clerk to assist him in taking the poll according to law; and each Poll Clerk appointed as aforesaid shall, before acting as such, take and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the Returning Officer, or such Deputy Returning Officer, the oath number four, in the said schedule, of the taking of which oath there shall be delivered to him, by the person before whom it has been taken, a certificate under his hand, in the form J in the said schedule.

Penalty.

2. Any person so appointed a Poll Clerk who refuses to accept the said office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath hereby required of him, or to perform the duties of a Poll Clerk, shall, for such neglect or refusal, incur a penalty of forty dollars.

Their duties.

37. Each Poll Clerk shall, at the polling place for which he is appointed, aid and assist, in the performance of the duties of his office, the Deputy Returning Officer appointed to open and keep the poll at such place in conformity to this Act, and shall obey the orders of the said Deputy Returning Officer.

To act for
deputy re-
turning officer
in certain
cases.

2. If the Deputy Returning Officer refuses or neglects to perform the duties of his office, or becomes unable to perform them, either by death, illness, absence or otherwise, and if in any such case no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former, appears at the polling place, then such Poll Clerk shall, under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer, act at such poll as Deputy Returning Officer, and perform all the duties and obligations of that office, in the same manner as if he had been appointed Deputy Returning Officer by the Returning Officer, and without being bound to take any new oath for that purpose.

in which he
may appoint
another poll
clerk.

3. Whenever any Poll Clerk, in the case hereinbefore provided, acts as Deputy Returning Officer, he may appoint by a commission

commission under his hand, in the form H of the said schedule, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and may administer to such person the oath required of a Poll Clerk by this Act; and the Poll Clerk so appointed shall have the same duties and obligations as if he had been appointed Poll Clerk by the Deputy Returning Officer himself.

4. And also, whenever any Poll Clerk, appointed under the requirements of this Act, refuses or neglects to perform his duty as such, or becomes unable to perform it, either by death, illness, absence or other cause, the Deputy Returning Officer, whose Poll Clerk he was, may appoint by a commission under his hand in the form H of the said schedule, another person as Poll Clerk at the said polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act.

Deputy returning officer may appoint another poll clerk in certain cases.

TAKING AND RECORDING THE VOTES.

For the mode of Procedure under the Ballot Act in regard to Taking and Recording Votes, see 37 V., c. 5, secs. 7-18.

38. Every Deputy Returning Officer shall, at the close of the poll, certify under his signature on the voters' list in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside. (a)

Deputies to certify the number of voters.

39. This section is repealed by 37 Vic., cap. 5, sec. 39, subsec. 9.

This Section is inserted as amended by 37 V., c. 5, sec. 39, sub. 3.

40. This section is repealed by 37 Vic. cap. 5, sec. 39, subsec. 9.

41. The Deputy Returning Officer, at any election of a member of the Legislative Assembly in any part of this Province, shall receive the vote of any person whose name he finds in the proper list of voters furnished to him, or in his possession as aforesaid: Provided that such person shall, if required by any candidate, or the agent of any candidate, or by the Deputy Returning Officer himself, take the following oath or affirmation, which such Deputy Returning Officer is hereby empowered to administer, in the form O in the schedule to this Act mentioned; and no other oath or affirmation shall be required of any person whose name is entered on any such list of voters as aforesaid.

Persons on voters' list allowed to vote on taking a certain oath if required.

Proviso.

2. At every election for the District of Algoma every person who offers to vote at any polling place in the said District shall, if required by any candidate, or the agent of any candidate, or

*Algoma.
For Further Provisions as to Algoma see post.*

(a) NOTE.—The following form is suggested:—"I, A. B., Deputy Returning Officer, hereby certify that, at the close of the poll, the total number of persons who have voted at the polling place where I have been appointed to preside, is. (State number not in figures but in full.)"

"Deputy Returning Officer."

by the Deputy Returning Officer, take the oath or affirmation in the form R, appended to this Act, which the Deputy Returning Officer is hereby empowered to administer.

Deputy returning officer must swear voters in certain cases.

Penalty.

*For "Poll Book" read
"Voters' list."*

42. Whenever any Deputy Returning Officer has reason to know or believe that fraud or violence is being practised in violation of the rights of electors, by which undue votes are tendered, or that any voter is not qualified, or has already voted at the said election, and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being on the list of voters, such Deputy Returning Officer, under a penalty of two hundred dollars, shall administer the oath authorized by law to such voter, whether he be required to do so or not by any party, of which mention shall be made in the poll book.

42. *Sub-sec. 2. This subsec. is repealed by 37 Vic. cap. 5, sec. 39, sub-sec. 9.*

Interpreter may be employed in certain cases.

His oath.

43. Whenever any elector does not understand the English language, the Deputy Returning Officer may employ an interpreter to translate the oath or affirmation required of such elector, as well as any lawful questions necessarily put to him and his answers; and such interpreter shall take before the said Deputy Returning Officer the oath (or if he be one of the persons permitted by law to affirm in civil cases, the affirmation) following: "I swear (or affirm) that I will faithfully translate such oaths, declarations, questions and answers as the Deputy Returning Officer shall require me to translate at this election; so help me God."

44. *This section is repealed by 37 Vic. cap. 5, sec. 39, sub-sec. 9.*

No scrutiny.

45. No Returning Officer or Deputy Returning Officer shall grant, make or enter into any scrutiny of the votes given at any election.

PENALTIES FOR VOTING FRAUDULENTLY.

Penalty for false personation.

46. If at the election of a member to serve in the Legislative Assembly, any person knowingly personates and falsely assumes to vote in the name of another person whose name appears on the proper list of voters, whether such other person be then living or dead, or if the name of the said other person be the name of a fictitious person, every such person shall incur a penalty of two hundred dollars.

Penalty for disqualification.

47. Any person willfully voting at any such election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote, shall, for so doing, incur a penalty of two hundred dollars, and his vote shall, moreover,

moreover, be null and void; and in any action or prosecution instituted as hereinafter provided against any such person for the recovery of the said penalty, the burden of the proof of such person having, at the time of his so voting, at such election, all the said qualifications, shall fall upon him and not upon the party instituting such action or prosecution; and any person who votes more than once at the same election shall, for so doing, incur a like penalty of two hundred dollars, and every vote he gives subsequently to his first vote shall be null and void.

48. If any lands or tenements are transferred or conveyed to any person, by any title or instrument whatever, fraudulently, and for the purpose of giving him the qualification requisite to enable him to vote, and if such person votes at any election, upon such lands or tenements, he shall incur a penalty of two hundred dollars; and nevertheless such transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to re-convey such lands or tenements, shall be valid, as between the parties thereto; and every such agreement to annul or revoke any such transfer or conveyance, or to reconvey such lands or tenements, shall be null and void.

PROCEEDINGS AFTER THE CLOSE OF THE POLLS.

49. Every Poll Clerk shall, after the closing of the poll at which he has acted as such, but before the Deputy Returning Officer, who has kept the same, has returned the poll book to the Returning Officer, as herein required, make and subscribe, either before a Justice of the Peace for the county or district in which he resides, or before the said Deputy Returning Officer, or before the Returning Officer himself, the oath in the form M of the schedule hereunto annexed, which oath shall thereafter be annexed to the said poll book.

2. The Deputy Returning Officer, who has kept and closed the poll, shall, before returning the poll book as aforesaid to the Returning Officer, make and subscribe, either before a Justice of the Peace for the county or district where he resides, or before the said Returning Officer, the oath in the form N of the said schedule, which oath shall thereafter be annexed to the said poll book; and the Deputy Returning Officer shall return the poll book, with such oath attached, to the Returning officer, or deposit the same in the nearest post-office, as hereinafter provided, on or before the third day after the closing of the polls.

50. Any Deputy Returning Officer or Poll Clerk who refuses or neglects to perform any of the obligations or formalities required of him by this Act, shall, for each such refusal or neglect, incur the penalty of two hundred dollars.

Deputies to
make certain
returns to Re-
turning Officer.

*This Section is
inserted as
amended by
37 Vic. c. 5, sec.
39, subsec. 1.*

51. The Deputy Returning Officer shall deliver or cause to be delivered to the Returning Officer, together with the packets and documents referred to in the Ballot Act of 1874, the said commissions of the Deputy Returning Officer and Poll Clerk, their respective oaths of office, and the said oaths in the forms M and N, which commissions and oaths shall be annexed to the voters' list.

CLOSING THE ELECTION AND PROCEEDINGS THEREAFTER.

52. This section is repealed by 37 Vic. cap. 5, sec. 39, subsec. 9.

*For the mode of counting the votes by the Returning Officer,
see 37 Vic. cap. 5, sec. 19.*

*For provisions as to Return and Preservation of Documents,
see 37 Vic. cap. 5, secs. 20 to 26.*

Proceedings in
case poll book
is stolen, etc.

*For "Poll
Book" read
"Voters' List."*

53. In case any poll book is stolen or taken from its lawful place of deposit for the time being, or has been lost or destroyed, or otherwise placed beyond the reach of the Deputy Returning Officer to whom the custody of such poll book for the time being belonged, at any time before he has made his return of the same to the Returning Officer, such Deputy Returning Officer shall attend personally on the Returning Officer and report to him the fact of such loss of the said poll book; and the Poll Clerk of such Deputy Returning Officer, so soon as he is informed of such loss personally or by letter, either by or from such Deputy Returning Officer, or the Returning Officer himself, or has other good reasons for believing that such loss has occurred, shall forthwith attend personally on such Returning Officer.

Examination
of deputy re-
turning officer
and poll clerk,
etc.

*For "Poll
Book" read
"Voters' List."*

*The latter part
of this sub-sec-
tion appears to
be superseded
by the provi-
sions of the Bal-
lot Act, 37 V. c. 5.*

2. The Returning Officer shall examine such Deputy Returning Officer and Poll Clerk upon oath or affirmation, as the occasion may require, as to such loss of the said poll book and the contents thereof, which examination shall be taken down by him in writing, and be subscribed by such Deputy Returning Officer and Poll Clerk, and annexed to the return in lieu of such poll book; and the number of votes which the said Returning Officer shall by this means find to have been recorded in such poll book for each candidate at such election, shall be included in his summing up of the votes at such election, as if the same had been taken from such poll book.

Punishment of
deputy re-
turning officer
or poll clerk
refusing to at-
tend or be
sworn.

3. If either the Deputy Returning Officer or the Poll Clerk omits to attend on such Returning Officer as hereby required, or refuses to be sworn or affirmed by such Returning Officer as aforesaid, he shall incur a penalty of two hundred dollars, and in the case of such refusal to be sworn or affirmed as aforesaid, shall, and may be committed by the said Returning Officer to the common gaol of the county or district, until thence discharged by an order in that behalf made by the Legislative Assembly.

54. When the Returning Officer, having received any poll book, or any document connected with the election, has reason to believe that the same has been altered, injured or obliterated, or that additions have been made thereto, he shall establish the true facts in the manner above provided in case of the loss of any poll book.

Duty of returning officer believing any election documents to be altered, etc.

For "Poll Book" read "Voters' list."

55. Each Returning Officer shall make or cause to be made exact copies of all the poll books returned to him by his several deputies, and, within ten days after making his return to the Clerk of the Crown in Chancery, as provided by the fifty-second section of this Act, shall deposit such copies duly certified by him in the office of the Registrar of deeds and titles for that county, riding or part of a county within which the place where the nomination of the candidates at such election was made, is situate; and the said Registrar shall allow inspection thereof to any person who may demand the same on payment of a fee of twenty cents, and shall allow such person to take copies of the same at his own expense.

Returning officer to have copies of the poll books made and deposited.

This section appears to be superseded by the provisions of the Ballot Act, 37 V. c. 5.

56. *This section is repealed by 37 Vic. cap. 5, sec. 39, subsec. 9.*

KEEPING THE PEACE AND GOOD ORDER AT ELECTIONS.

57. From the time when any Returning Officer or Deputy Returning Officer has taken and subscribed the oath of office as such, until the day next after the final closing of the polls at such election, such Returning Officer or Deputy Returning Officer, respectively, shall be a conservator of the peace, and invested, for the maintenance of the peace, for the arrest, detention, or admission to bail, trial and conviction of any person or persons who break the law or trouble the peace, with the same powers with which Justices of the Peace are invested in this Province.

Returning officer and his deputies to be conservators of the peace;

2. For the maintenance of the peace and of good order at such election, each such Returning Officer or Deputy Returning Officer, respectively, may require the assistance of all Justices of the Peace, constables, and other persons present at the election, whether at the place of holding the election, or at any polling place, to aid him in so doing, and may also swear in as many special constables as he deems necessary.

may require the aid of Justices of the Peace, etc.;

3. Each such Returning Officer or Deputy Returning Officer, respectively, may arrest or cause to be arrested by verbal order, and may place in the custody of one or more constables or other persons, for such time as in his discretion he deems expedient, any person disturbing the peace and good order, or may cause such person to be imprisoned for any such offence, under an order signed by him, for any period not later than the

and may arrest disturbers, or order them to be imprisoned for a certain time.

Penalty.

the final closing of the election or of the poll, respectively; which order all persons shall obey without delay, under a penalty, for any refusal or neglect so to do, of twenty dollars.

Such arrest
not to prevent
other punishment.

4. No such arrest, detention or imprisonment shall, in any manner, exempt the person so arrested, detained, confined, or imprisoned, from any pains or penalty to which he has become liable by reason of anything by him done contrary to the true intent and meaning of this Act or otherwise.

Special consta-
bles to be
sworn in cer-
tain cases.

58. On a requisition in writing made by a candidate or by his agent, or by any two or more electors, any Returning Officer or Deputy Returning Officer shall swear in such special constables.

Returning
officer or
deputy may
demand sur-
render of all
weapons.

59. Any Returning Officer or Deputy Returning Officer may, during any part of the day whereon any such election is to be begun, holden or proceeded with, or on which any poll for such election is to be begun, holden or proceeded with, demand and receive from any person whomsoever, any offensive weapon, such as fire arms, swords, staves, bludgeons, or the like, with which any such person is armed, or which any such person has in his hands or personal possession; and every such person who, upon such demand, declines or refuses to deliver up to such Returning Officer or Deputy Returning Officer any such offensive weapon as aforesaid, shall incur a penalty of twenty dollars.

Penalty.

Penalty for
persons con-
victed of bat-
tery.

60. Every person convicted of a battery committed during any part of the days whereon any such election, or any poll for such election, is to be begun, holden, or proceeded with, within the distance of two miles of the place where such election or such poll is so begun, holden, or proceeded with, shall incur a penalty of fifty dollars.

Entertain-
ment not to
be furnished to
electors.*This section is
inserted as
amended by 36
V. c. 2, sec. 2.*

Exception.

With certain
exceptions, no
stranger to
come armed
into any
parish, etc.,
while the poll
is open.

61. No candidate for the representation of any electoral division shall, nor shall any other person, either provide or furnish drink or other entertainment at the expense of such candidate or other person, to any meeting of electors assembled for the purpose of promoting such election, previous to or during such election, or pay or promise, or engage to pay for any such drink or other entertainment, except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of electors, by or at the expense of any person or persons at his, her or their usual place of residence.

62. Except the Returning Officer or his Deputy, or the Poll Clerk, or one of the constables, or special constables, appointed by such Returning Officer or his Deputy, for the orderly conduct of such election or poll, and the preservation of the public peace thereat, no person who hath not had a stated residence in the

the township or union of townships, or ward, or sub-division, for at least six months next before the day of such election, shall come during any part of the day, upon which such poll is to remain open, into such township or union of townships, ward, or sub-division, armed with offensive weapons of any kind, as fire arms, swords, staves, bludgeons, or the like ; nor shall any person whomsoever being in such township, union of townships, ward, or sub-division, arm himself, during any part of such day, with any such offensive weapons, and thus armed approach within the distance of two miles of the place where the poll for such sub-division is held, unless called upon to do so by lawful authority.

nor armed person to approach within two miles of the poll.

63. No candidate for the representation of any electoral division, or any other person, shall furnish or supply any ensign, standard, or set of colours, or any other flag to or for any person or persons whomsoever, with intent that the same should be carried or used in such electoral division, on the day of election, or within eight days before such day, or during the continuance of such election or polling, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate ; nor shall any person for any reason carry or use any such ensign, standard, set of colours, or other flag, as a party flag, within such electoral division on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

Party ensigns, flags, etc., not to be carried during the election or within eight days before it.

64. No candidate for the representation of any electoral division, or any other person, shall furnish or supply any ribbon, label, or the like favor, to or for any person whomsoever, with intent that the same should be worn or used within such electoral division on the day of election or polling, or within eight days before such day, or during the continuance of such election, by such person or any other as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate ; nor shall any person use or wear any ribbon, label, or other favor, as such badge, within such electoral division, on the day of any such election or polling, or within eight days before such day, or during the continuance of such election.

Party badges, etc., not to be used during like time.

65. Every person offending against any of the provisions of the four next preceding sections, shall incur a penalty of one hundred dollars.

66. Every hotel, tavern and shop in which spirituous or fermented liquors or drinks are ordinarily sold, shall be closed, during the day appointed for polling, in the wards or municipalities

All taverns, etc., to be closed during the polling day.

Penalty.

palities in which the polls are held ; and no spirituous or fermented liquors or drinks shall be sold or given to any person within the limits of such municipality during the said period, under a penalty of one hundred dollars in every such case.

PREVENTION OF CORRUPT PRACTICES AT ELECTIONS.

Certain acts to be bribery. **67.** The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :—

Giving money, etc., to voters.

(1.) Every person who shall directly or indirectly, by himself or by any other person on his behalf, give, lend or agree to give or lend, or shall offer or promise any money or valuable consideration, or promise or endeavour to procure any money, or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at any such election.

Procuring office, etc., for voters;

(2.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer or promise, any office, place or employment, or promise to procure, or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

or for persons influencing voters.

(3.) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in parliament, or the vote of any voter at any election.

Corruptly influencing voters.

(4.) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procure or engage, promise or endeavour to procure, the return of any person to serve in parliament, or the vote of any voter at any election.

Advancing or paying money for bribery.

(5.) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay, or cause to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(6.) Any person so offending shall incur a penalty of two hundred dollars : Provided always, that the actual personal expenses of any candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act.

68. The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :— Certain acts by voters to be bribery.

(1.) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree or contract for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.

(2.) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration, on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any election.

2. Any person so offending shall incur a penalty of two hundred dollars.

69. This section is repealed by 36 Vic. cap. 2, sec. 3, new provisions.

70. Upon its being proved before any election committee of the Legislative Assembly, at the trial of any contested election, that any elector voting at the said election was bribed, his vote shall be null and void, and he shall be disqualified from voting at the next general election.

71. And whereas doubts may arise as to whether the hiring of teams and vehicles to convey electors to and from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law, it is declared and enacted that the hiring or promising to pay or paying for any horse, team, carriage, cab or other vehicle, by any candidate, or by any person on his behalf, to convey voters to or near or from the poll, or from the neighborhood thereof, at any election, or the payment by any candidate, or by any person on his behalf, of the travelling and other expenses of any voter in going to or returning from any election, shall be illegal acts ; and the person so offending shall thereby incur a penalty of one hundred dollars ; and any elector who shall hire any horse, cab, cart, waggon, sleigh, carriage, or other conveyance for any

Hiring of vehicles by candidates to convey electors illegal.

Penalty.

Penalty for electors so doing.

Persons using violence, etc., to be guilty of undue influence.

Penalty.

Persons not excused from answering before committees, etc., on the ground that answers may criminate.

Contracts arising out of elections to be void.

any candidate, or for any agent of a candidate, for the purpose of conveying electors to or from the polling place or places, shall *ipso facto* be disqualified from voting at such election, and for every such offence shall incur a penalty of one hundred dollars.

72. Every person who shall directly or indirectly by himself or by any other person on his behalf, make use of, or threaten to make use of, any force, violence or restraint, or inflict, or threaten the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practice intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede, prevent, or otherwise interfere with the free exercise of the franchise of any voter, or shall thereby compel, induce, or prevail upon any voter, either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall incur a penalty of two hundred dollars.

73. No person shall be excused from answering any question put to him in any action, suit, or other proceeding in any Court, or before any Judge, commissioner, or select committee, touching or concerning any election, or the conduct of any person thereat, in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used in any criminal proceeding against such person, other than an indictment for perjury, if the Judge, commissioner, or chairman of the committee shall give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers, to the satisfaction of the Judge, commissioner or committee.

74. Every executory contract or promise or undertaking, in any way referring to, arising out of, or depending upon, any election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back any money paid for lawful expenses connected with such election.

PENALTIES AND PUNISHMENTS.

Persons stealing, unlawfully taking or falsifying.

75. If any person unlawfully, either by violence or stealth, takes from any Deputy Returning Officer or Poll Clerk, or from

from any other person having the lawful custody thereof, or from its lawful place of deposit for the time being, or unlawfully or maliciously destroys, injures or obliterates, or causes to be willfully or maliciously destroyed, injured or obliterated, or makes or causes to be made, any erasure, addition of names or interlineation of names, in, to or upon, or aids, counsels or assists in so taking, destroying, injuring or obliterating, or making any erasures, addition of names, or interlineation of names, in, to or upon any list of voters or any writ of election, or any return to a writ of election, or any poll book, certificate or affidavit, or any other document or paper, made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, every such offender shall incur a penalty of two thousand dollars.

*For Penalties
for other of-
fences see 37 V.
c. 5, sec. 27.*

76. Every person who aids, abets, counsels or procures the commission of any such violation of this Act, as in the next preceding clause mentioned, shall incur a penalty of two thousand dollars.

77. All penalties imposed by this Act shall be recoverable, with full costs of suit, by any person who will sue for the same by action of debt or information, in any of her Majesty's Courts in this Province having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period to be fixed by such Court, such offender shall be imprisoned in the common gaol of the place until he has paid the amount which he has been so condemned to pay and the costs.

*Abettors pun-
ishable as prin-
cipals.*

*How penalties
under Act re-
coverable, and
payment en-
forced.*

2. It shall be sufficient for the plaintiff, in any action or suit given by this Act, to state in the declaration that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action or suit is brought, and that the defendant had acted contrary to this Act, without mentioning the writ of election or the return thereof.

*Statement in
the declara-
tion.*

3. It shall not be necessary on the trial of any suit or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the Returning Officer founded upon any such writ of election, but general evidence of such facts shall be sufficient evidence.

*Writ, etc.,
need not be
produced at
trial.*

4. Every action, suit or information given by this Act, shall be commenced within the space of one year next after the act committed, and not afterwards.

*Limitation of
suits.*

FEES AND EXPENSES.

78. The fees hereinafter mentioned, and no other, shall be allowed to the several officers hereinafter mentioned, respectively,

*Fees for ser-
vices, etc.*

ively, for their services and disbursements at any election, that is to say :—

RETURNING OFFICERS.—RURAL ELECTORAL DIVISION.

Returning
Officers.

- (1.) Drawing proclamation.....*one dollar.*
- (2.) Paid printing fifty copies.....*actual cost.*
- (3.) Mileage on posting same, for each mile necessarily travelled, from place to place, to be taxed as sheriff's mileage on summoning jurors.....*ten cents per mile.*
- (4.) Holding election and making return (if no contest), including appointment and swearing Election Clerk.....*ten dollars.*

- (5.) Election Clerk, one day.....*two dollars.*
- (6.) Two constables one day (each).....*one dollar;*—

And the following additional charges in contested cases:—

- (7.) Appointing deputies and swearing them (each).....*fifty cents.*

- (8.) Furnishing poll books, and copies of voters' lists, when necessary, actual cost not exceeding.....*ten cents for thirty names.*

- (9.) Mileage to deliver same to deputies, when necessary; only one mileage for both, to be taxed as above per mile.....*ten cents.*

- (10.) Making up and transmitting returns to the Clerk of the Crown in Chancery (including duplicates to each candidate, and all other necessary expenses connected therewith)....*ten dollars.*

- (11.) Copy of poll books to be deposited in Registry Office, actual cost not exceeding.....*ten cents for every thirty names.*

- (12.) For services under clauses fifty-three and fifty-four, such amount as the Lieutenant Governor may think reasonable under the circumstances of the case.

- (13.) Postage*amount actually paid out.*

- (14.) Pay of Election Clerk, one day,.....*two dollars.*

- (15.) Mileage of Returning Officer and Election Clerk, going to

to and returning from the election on nomination day (each), *ten cents for every mile necessarily travelled.*

DEPUTY RETURNING OFFICERS.

(16.) Taking the polls, including all the services connected therewith, and making returns *four dollars.* Deputy returning officers.

(17.) Paid Poll Clerk, one day *two dollars.*

(18.) Paid one constable, one day *one dollar.*

(19.) For each polling booth, *actual cost, not exceeding four dollars,* to be paid by the township Treasurer, on the order of the Deputy Returning Officer, unless the township council shall provide suitable polling places at their own expense.

IN CITIES AND TOWNS.

(20.) To Returning Officers in cities and towns, holding *Fees in cities, etc.* election and making returns when no contest (exclusive of *etc.* actual charge for printing) *ten dollars.*

(21.) When election contested (exclusive of actual charge for printing) *twenty dollars.*

(22.) To Deputy Returning Officers, Election Clerks, Poll Clerks and Constables, *the same charge as at rural elections;* and the like charge, paid in the same manner, for polling booths, as in rural polling places; which said fees, allowances and disbursements shall be paid over to the Returning Officer, How fees to be paid and accounted for. by warrant of the Lieutenant Governor, directed to the Treasurer of the Province, out of the Consolidated Revenue Fund of the Province, and shall be distributed by such Returning Officer to the several officers and persons entitled to the same under the provisions of this Act, which distribution he shall report to the Lieutenant Governor through the Provincial Secretary.

MISCELLANEOUS PROVISIONS.

79. Any person before whom it is hereby required that *No charge for oaths, etc.* any oath be taken, or any affirmation made in the manner herein provided, shall administer such oath or affirmation gratuitously.

80. One copy of this Act (with a copious alphabetical index To whom copies of Act to be sent. prefixed) for the Returning officer, and one for each of his Deputies, shall be transmitted, with the writ of election, to each Returning Officer.

Meaning of
term "Electo-
ral division."

81. The expression "Electoral division" in this Act, means any county, or other place or portion of this Province, entitled to return a member to the Legislative Assembly.

Short title,

82. This Act may be cited as *The Election Law of 1868.*

SCHEDULE 1.

FORM A, REFERRED TO IN THE TWENTIETH SECTION OF THIS ACT.

Proclamation of the Returning Officer declaring the time and place fixed for the opening of the election, and also the day for opening the poll.

PROCLAMATION.

County (Riding, City, Town or Electoral Division, *as the case may be*) of , to wit :

Public Notice is hereby given to the Electors of the County, (*or as the case may be*) of , that, in obedience to Her Majesty's Writ to me directed, and bearing date the day of the month of , I require the presence of the said Electors at in the County (or Township, or in the City or Town) of (*here describe the place distinctly, whether the Election be for a County or for any other Electoral Division*), on the day of the month of , at o'clock in the noon, for the purpose of electing a person (*or persons, as the case may be*) to represent them in the Legislative Assembly of this Province; and that in case a Poll be demanded and allowed in the manner by law prescribed, such Poll will be opened on the day of the month of , in the year , in each of the Townships, Wards, or Polling Subdivisions in which a Polling place is to be opened and kept according to law, of which due notice will be given on the Day of Nomination. Of all which every person is hereby required to take notice and to govern himself accordingly.

Given under my hand at , this day of the month of , in the year 18 .

(Signature.) A. B.

Returning Officer.

2.

2.

OATH NO. 1, REFERRED TO IN THE TWENTY-FIRST SECTION OF THIS ACT.

Oath of the Returning Officer.

I, the undersigned, A. B., Returning Officer for the County (*or Riding, or as the case may be*) of _____ solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I am legally qualified according to law to act as Returning Officer for the said County (*or Riding, or as the case may be*) of _____, and that I will act faithfully in that capacity, without partiality, fear, favor or affection; so help me God.

(Signature.) A. B.,
 Returning Officer.

3.

FORM B, REFERRED TO IN THE TWENTY-FIRST SECTION OF THIS ACT.

Certificate of the Returning Officer having taken the Oath of Office.

I, the undersigned, hereby certify that on the _____ day of the month of _____, 18_____, A. B., the Returning Officer for the County (*or as the case may be*) of _____, took and subscribed before me the Oath (*or Affirmation*) of office in such case required of a Returning Officer by the twenty-first section of "The Election Law of 1868."

In testimony whereof, I have delivered to him this Certificate.

(Signature.) C. D.,
 Justice of the Peace.

4.

FORM C, REFERRED TO IN THE TWENTY-SECOND SECTION OF THIS ACT.

Commission of an Election Clerk.

To E. F. (*set forth his legal addition and residence.*)

Know you, that in my capacity of Returning Officer for the County (*or as the case may be*) of _____, I have appointed and do hereby appoint you to be my Election Clerk, to

to act in that capacity according to law at the approaching Election for the said County (*or as the case may be*) of , which Election will be opened by me on the day of the month of , 18 . Given under my hand this day of the month of , in the year 18 .

(Signature.) A. B.

Returning Officer.

5.

OATH NO. 2, REFERRED TO IN THE TWENTY-SECOND SECTION OF THIS ACT.

Oath of the Election Clerk.

I, the undersigned E. F., appointed Election Clerk for the County (*or as the case may be*) of , solemnly swear, (*or, if he be one of the persons permitted by law to affirm, solemnly affirm*) that I will act faithfully in my said capacity as election Clerk, and also in that of Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection ; so help me God. .

(Signature.) E. F.

Election Clerk.

6.

FORM D, REFERRED TO IN THE TWENTY-SECOND SECTION OF THIS ACT.

Certificate of the Election Clerk having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , 18 , E. F., Election Clerk for the County (*or as the case may be*) of , took and subscribed before me the Oath (*or Affirmation*) of office required in such case of an Election Clerk, by the twenty-second section of "The Election Law of 1868."

In testimony whereof, I have delivered to him this Certificate under my hand.

(Signature.) C. D.

Justice of the Peace.

or, A. B.

Returning Officer.

7.

FORM E, REFERRED TO IN THE TWENTY-THIRD SECTION OF THIS ACT.

Proclamation which the Returning Officer is to cause to be read at the Hustings, on the day of the opening of the Election.

OYEZ. OYEZ, OYEZ.

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present Election is publicly read, under the pains and penalties in such case provided.

8.

FORM F, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

Commission of Deputy-Returning Officer.
To G. H. (Insert his residence and legal addition.)

Know you, that in my capacity of Returning Officer for the Electoral Division of _____ I have appointed and do hereby appoint you to be Deputy-Returning Officer for the polling subdivision of the Township (*or as the case may be*) of _____ in the said Electoral Division, there to take the votes of the electors according to law, at the polling place to be by you opened and kept for that purpose; and you are hereby authorized and required to open and hold the poll of such election for the said _____ polling subdivision of the said Township (*or as the case may be*) of _____ on the day of _____ A. D. 18_____, at nine o'clock in the forenoon, at (*here describe particularly the place in which the poll is to be held*), and there to keep the said poll open during the hours prescribed by law, and to do and perform in such polling place all acts and duties required to be performed by the Deputy-Returning Officer appointed to act therefor, and to return to me on or before the day of _____ A. D. 18_____, together with this commission, the several packets and documents required to be returned to me in the manner prescribed by section _____ of the Ballot Act of 1874.

*This form is
inserted as
amended by 37
V. o. 5, sec. 39,
subsec. 2.*

Given under my hand at the _____ of _____ A. D. 18_____.
County (*or as the case may be*) of _____

(Signed)

A. B.,
Returning Officer.

9.

OATH NO. 3, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

Oath of Deputy Returning Officer.

I, the undersigned G. H., appointed Deputy Returning Officer for the Polling Subdivision of the Township (*or as the case may be*) of , in the County (*or as the case may be*) of , solemnly swear (*or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully, in my said capacity of Deputy Returning Officer, without partiality, fear, favor or affection; so help me God.

(Signature.) G. H.,
Deputy Returning Officer.

10.

FORM G, REFERRED TO IN THE THIRTY-FIRST SECTION OF THIS ACT.

Certificate of the Deputy Returning Officer (or, one of the Deputy Returning Officers, as the case may be), having taken the Oath of Office.

I, the undersigned, hereby certify that on the day of the month of , G. H., Deputy Returning Officer for the Polling Subdivision of the Township (*or as the case may be*) of , in the County (*or as the case may be*) of , took and subscribed the oath (*or affirmation*) of Office required in such case of a Deputy Returning Officer, by the thirty-first section of "The Election Law of 1868."

In testimony whereof I have delivered to him this Certificate under my hand.

(Signature.) C. D.,
Justice of the Peace.
or, A. B.,
Returning Officer.

11.

FORM H, REFERRED TO IN THE THIRTY-SIXTH AND THIRTY-SEVENTH SECTIONS OF THIS ACT.

Commission of a Poll Clerk.

To I. J. (*insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer for

for the Polling Subdivision of the Township (*or as the case may be*) of , in the County (*or as the case may be*) of , I have appointed and do hereby appoint you to be Poll Clerk for the said Polling Subdivision of the said Township of (*or as the case may be*)

Given under my hand, at this day of the month of , in the year 18 .

(Signature.) G. H.,
Deputy Returning Officer

12.

OATH NO. 4, REFERRED TO IN THE THIRTY-SIXTH SECTION OF THIS ACT.

Oath of a Poll Clerk.

I, the undersigned, I. J., appointed Poll Clerk for the Polling Subdivision of the Township (*or as the case may be*) of in the County (*or as the case may be*) of , do solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases do solemnly affirm*) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection; so help me God.

(Signature.) I. J.,
Poll Clerk.

13.

FORM J, REFERRED TO IN THE THIRTY-SIXTH SECTION OF THIS ACT.

Certificate of the Poll Clerk having taken the Oath.

I, the undersigned, hereby certify, that on the day of the month of , I. J., Poll Clerk for the Polling Subdivision of the Township (*or as the case may be*) of , in the County (*or as the case may be*) of , took and subscribed before me the oath (*or affirmation*) of office required of a Poll Clerk in such cases by the thirty-seventh section of "The Election Law of 1868."

In testimony whereof, I have delivered to him this certificate under my hand,

(Signature.) C. D.,
Justice of the Peace.

or A. B.,
Returning Officer.

or G. H.,
Deputy Returning Officer.

14.

15.

FORM M, REFERRED TO IN THE FORTY-NINTH SECTION OF THIS ACT.

Oath of the Poll Clerk after the closing of the Poll.

*This form is
inserted as
amended by 37
V., c. 5, sec. 39,
subsec. 4.*

I, the undersigned, Poll Clerk for the polling subdivision of the Township (*as the case may be*) of in the Electoral Division of do solemnly swear (*or if he be a person permitted by law to affirm, do solemnly affirm*) that the annexed voters' list used in and for the said polling subdivision of the said Township (*or as the case may be*) under the direction of C. D., who has acted as Deputy-Returning Officer for such polling sub-division, has been so used by me under his direction as aforesaid, and that the entries required by law to be made therein have been so made by me correctly and to the best of my skill and judgment.

(Signed)

E. F.

Poll Clerk.

Sworn (*or affirmed*) and subscribed before me at this day of A. D. 18 .

(Signed)

X. Y.,

Justice of the Peace.

or, A. B.,

Returning Officer.

or, G. H.,

Deputy Returning Officer.

16.

FORM N, REFERRED TO IN THE FORTY-NINTH SECTION OF THIS ACT.

Oath of the Deputy Returning Officer after the closing of the Poll.

*This form is
inserted as
amended by 37
V., c. 5, sec. 39,
subsec. 5.*

I, the undersigned, Deputy Returning Officer for the polling subdivision of the Township (*or as the case may be*) of in the Electoral Division of do solemnly swear (*or if it be a person permitted by law to affirm, do solemnly affirm*) that to the best of my knowledge the annexed voters' list used in and for the said polling sub-division of the said Township (*or as the case may be*), was so used under my

my direction in the manner prescribed by law, and that the entries required by law to be made therein were correctly made.

(Signed) C. D.,
Deputy Returning Officer.

Sworn (or affirmed) before me at this day
of A. D. 18 ,

(Signed) X. Y.,
Justice of the Peace.
or, A. B.,
Returning Officer.

NOTE.—The foregoing oath is to be annexed to the voters' list used at the election.

17.

FORM O, REFERRED TO IN THE FORTY-FIRST SECTION OF THIS ACT.

You swear (or solemnly affirm) that you are the person named (or purporting to be named, by the name of) on the list of voters now shown unto you (*showing the list to the voter*) ; that at the time of the last final revision and correction of the Assessment Roll on which this list is based, for this Township (City or Town as the case may be), you were (and, if the fact be so, still are) actually, truly and in good faith possessed to your own use and benefit as owner (or tenant, or occupant, as the case may be), of the real estate in respect of which your name (or the said name of) is entered on the said list of voters (or, if the party has parted with such possession, then insert these words, "that you are still a resident of this Electoral Division") and as such entitled to vote at this Election ; that you are a subject of Her Majesty by birth or naturalization ; that you are of the full age of twenty-one years ; that you have not voted before at this Election, either at this or any other Polling place ; and that you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this Election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith, and that you have not directly or indirectly paid or promised anything to any person either to induce him to vote or to refrain from voting at this election ; so help you God.

*This oath is
inserted an
amended by 36
V., c. 2, sec. 6.*

18.

OATH R, REFERRED TO IN SUBSECTION OF SECTION FORTY-ONE.

You swear (or solemnly affirm) that you are A.

B. ; that you are a subject of Her Majesty by birth

*For Further
Provisions as
to Algoma see
or post.*

or naturalization; that you have had a stated residence in the District of Algoma for at least one year next previous to the date of the writ of election; that you are a householder in the said District; that you are of the full age of twenty-one years; that you have not voted before at this election, either at this or any other Polling place; that you have not received anything, nor has anything been promised you directly or indirectly, either to induce you to vote at this Election, or for loss of time, travelling expenses, hire of team, or any other service connected with the said Election; so help you God.

37 VICTORIA, CAP. 5.

AN ACT to provide for voting by Ballot at Elections to the Legislative Assembly.

[Assented to 24th March, 1874.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

PROCEEDINGS PRELIMINARY TO THE POLL.

1. In case of a poll at an election of members to serve in the Legislative Assembly, the votes shall be given by ballot. Votes to be by ballot.
2. The returning officer shall, on receiving the writ of election, procure or cause to be procured, as many boxes (hereinafter called ballot boxes) as there are polling subdivisions within the electoral division ; Ballot boxes to be furnished ed.
3. The ballot boxes shall be made of some durable material, How made. shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein, and cannot be withdrawn therefrom unless the box be unlocked ;
3. When it becomes necessary for the purposes of an election to use the ballot boxes, it shall be the duty of the returning officer two days at least before the polling day to deliver one of the ballot boxes to every deputy returning officer appointed for the purposes of the election ; Delivery of to deputy officers.
4. Within one week after the close of the election, each deputy returning officer shall deliver the ballot box used in his polling subdivision to the clerk of the municipality within which such polling subdivision is situate ; and the ballot boxes delivered to such clerk shall be preserved by him for use at future elections for the electoral division ; Delivery to Clerk for future elections.
5. If the returning officer fail to furnish ballot boxes in the manner herein provided, he shall incur a penalty of one hundred dollars, in respect of every ballot box which he has failed to furnish in the manner prescribed ; Penalty on failure to furnish boxes.
6. It shall be the duty of the deputy returning officer in every polling subdivision not supplied with a ballot box within the time prescribed, forthwith to procure one to be made. Deputy officers may procure boxes.
3. Where a poll has been granted, the returning officer shall forthwith cause to be printed such a number of ballot papers, Ballot papers to be printed.

papers, as shall be sufficient for the purposes of the election ; and the same shall be bound or stitched in a book of convenient size, and in such manner that the counterfoils shall continue bound or stitched when the ballot papers are detached therefrom ;

Contents and form.

2. Every ballot paper shall contain the names of the candidates, arranged alphabetically in the order of their surnames ; and if there be two or more candidates with the same surname, or their other names, and the ballot papers may be according to the form or schedule A. to this Act ;

3. The number and names of each candidate shall, if practicable, be distinctly printed in ink of different colours, if on the nomination day the candidates agree as to the colours ; and the returning officer shall give each candidate a certificate setting forth the selection of the colour made by him ;

4. Every ballot paper shall have a counterfoil attached thereto ; every ballot paper and counterfoil shall specify the name of the electoral division for which it is to be used ; and every ballot paper shall have a number printed on the back thereof, and the same number shall be printed on the face of the counterfoil attached thereto : Provided that the same number shall not be printed on more than one ballot paper to be used for the electoral division ;

Tendered ballot papers.

5. In addition to the ballot papers hereinbefore referred to, the returning officer shall cause to be printed such a number of other ballot papers (hereinafter called tendered ballot papers) to be used in the manner hereinafter directed, as shall be sufficient for the purposes of the election ;

Contents and form.

6. Such tendered ballot papers shall be in the same form as the ballot papers hereinbefore referred to, but shall be of a colour differing from the same ; and upon the back of the tendered ballot papers, and upon the face of the counterfoils attached thereto, shall be printed the words, " Tendered Ballot Paper;"

7. The tendered ballot papers and the counterfoils attached thereto shall be numbered in a manner similar to that in which the other ballot papers and counterfoils are hereinbefore directed to be numbered, and shall be bound or stitched in like manner ;

Returning officer to furnish Deputies with ballot books, &c.

8. The returning officer shall before the opening of the poll deliver or cause to be delivered to every deputy returning officer the books containing the ballot papers and tendered ballot papers, with their respective counterfoils attached, which have been prepared for use in the polling subdivision for which such deputy returning officer is appointed to act ; and

and shall also furnish to the deputy returning officer, or see that he is furnished with the necessary materials for voters to mark the ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the convenient use of voters.

4. The returning officer shall before the opening of the poll deliver or cause to be delivered to every deputy returning officer such a number of printed directions for the guidance of voters in voting as he may deem sufficient, and shall so deliver or cause to be so delivered at least ten copies of such printed directions; such directions shall be printed in conspicuous characters, and may be according to the form in schedule B to this Act;

2. Every deputy returning officer shall before the opening of the poll, or immediately after he has received such printed directions from the returning officer, if he did not receive the same before the opening of the poll, cause such printed directions to be placarded outside the polling place for which he is appointed to act, and also in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling.

5. Every polling place shall be furnished with compartments in which the voters can mark their votes screened from observation; and it shall be the duty of the returning officer and deputy returning officer respectively, to see that a sufficient number of such compartments are provided at each polling place.

6. The deputy returning officer shall, upon receiving the copy or duplicate of the voters' list for the polling sub-division for which he is to act, prefix a number to every name in such copy or duplicate, and such numbers so prefixed need not be consecutive numbers, but may be chosen arbitrarily by the deputy returning officer: Provided that the same number shall not be prefixed to more than one name; and the deputy returning officer shall take all necessary precautions for concealing and shall conceal from all persons (except the poll clerk) the numbers so prefixed by him to the names on the copy or duplicate of the voters' list.

THE POLL.

7. The deputy returning officer shall, immediately before the commencement of the poll, shew the ballot box to such persons as are present in the polling place, so that they may see that it is empty; and he shall then lock the box, and place his seal upon it in such manner as to prevent its being opened without breaking such seal; and he shall then place

Returning officer to furnish Deputies with directions for voters' guidance.

Deputies to placard the directions.

Compartments wherein voters may mark votes.

Deputies to prefix numbers on voters lists, and conceal the numbers.

Deputy to show box empty, lock and seal it.

place the box in his view for the receipt of ballot papers, and shall keep it so locked and sealed.

**Conduct of
Deputy on
tender of vote.**

8. When any person claiming to be entitled to vote presents himself for the purpose of voting, the deputy returning officer shall proceed as follows :—

Name.

1. He shall ascertain that the name of such person is entered, or purports to be entered, upon the voters' list for the sub-division for which such deputy returning officer is appointed to act.

Recording.

2. He shall record or cause to be recorded in the proper columns of the voters' list, the residence and legal addition of such person ;

Oath.

3. If such person shall take the oath or affirmation required to be taken by voters in the manner directed by the Election Law of 1868, the deputy returning officer shall enter, or cause to be entered, opposite each person's name in the proper column of the said voters' list, the word "sworn," or "affirmed," according to the fact ;

Objection.

4. Where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter the objection, or cause the same to be entered, in the voters' list, by writing opposite the name of such person, in the proper column, the words "objected to," stating at the same time by which candidate or on behalf of which candidate the objection has been made, by adding after the words "objected to" the name only of such candidate ;

**Refusal to take
the oath.**

5. Where such person as aforesaid has been required to take the oath or affirmation, and refuses to take the same, the deputy returning officer shall enter, or cause to be entered opposite the name of such person in the proper column of the voter's list, the words, "refused to be sworn," or "refused to affirm," according to the fact ; and the vote of such person shall not be taken or received ; and if taken and received it shall be null and void ; and the deputy returning officer shall, for having taken and received such vote, or caused the same to be taken and received, incur a penalty of two hundred dollars ;

**Deputy to
sign name on
ballot paper
and counter-
foil.**

6. Where the proper entries respecting the person so claiming to vote have been made in the voters' list in the manner prescribed, the deputy returning officer shall sign his name or initials upon a ballot paper and upon the counterfoil attached thereto ;

**Delivery of pa-
per to voter.**

7. The ballot paper shall be detached from the counterfoil and shall be delivered to such person ;

8. The counterfoil shall be retained in the book by the conduct as to.
deputy returning officer, who shall write or otherwise mark
upon such counterfoil the number prefixed to the name of
such person upon the voters' list; and opposite the name of
such person in the voters' list a mark shall be placed to de-
note that he has received a ballot paper, but not showing the
particular ballot paper which he has received;

9. The deputy returning officer shall take all necessary Deputy to
conceal num-
ber on the
paper,
precautions for concealing, and shall conceal, as far as pos-
sible, from all persons present (including the poll clerk and
the agents of the candidates, as well as all other persons), the
number printed upon the ballot paper delivered to any person,
and upon the counterfoil which was attached thereto,
and shall not permit the counterfoil to be inspected by any
person;

10. The deputy returning officer may, and upon request and explain
mode of vot-
ing.
shall, either personally or through his clerk, explain to the
voter, as concisely as possible, the mode of voting, and the
colors in which the numbers and names of candidates are
printed on the ballot paper.

9. Upon receiving from the deputy returning officer the As to what shall
be deemed a ten-
der of a vote
and a voting, see
sec. 38 of this
Act.
ballot paper so prepared as aforesaid, the person receiving the Voting, mark-
ing ballot
paper.
same shall forthwith proceed into one of the compartments
provided for the purpose, and shall then and therein mark
his ballot paper in the manner mentioned in the directions
contained in schedule B to this Act, by placing a cross on
the right hand side, opposite the name of the candidate for
whom he desires to vote, thus \times ; and he shall then fold the
ballot paper across, so as to conceal the names of the candidates,
add the mark upon the face of such paper, and so as to
expose the initials of the deputy returning officer and the
number on the back, and leaving the compartment, shall,
without delay, and without shewing the front to any one or
so displaying the ballot paper as to make known to any per-
son the name of the candidate for or against whom he has
marked his vote, deliver such ballot paper so folded to the
deputy returning officer, who shall, without unfolding the same,
or in any way disclosing the names of the candidates, or the
mark made by such elector, verify his own initials, and the
number on the back of the paper, and at once deposit the
same in the ballot box in the presence of all persons entitled
to be present and then present in the polling place; and the
voter shall forthwith leave the polling place.

10. While any voter is in any balloting compartment for Exclusion
from balloting
compartment.
the purpose of marking his ballot paper, no other person shall
be allowed to enter the compartment, or to be in any position
from which he can observe the mode in which the voter
marks his ballot paper.

Voter not to take his paper from polling place.

11. No person who has received a ballot paper or tendered ballot paper from the deputy returning officer shall take the same out of the polling place ; and any person having so received a ballot paper or tendered ballot paper, who shall leave the polling place without first delivering the same to the deputy returning officer in the manner prescribed, shall thereby forfeit his right to vote, and the deputy returning officer shall make an entry in the voters' list, in the column for remarks, to the effect that such person received a ballot paper, but took the same out of the polling place, or returned the same declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "declined" upon such ballot paper, and shall preserve it to be returned to the returning officer.

Proceedings in case of incapacity to mark paper.

12. In case of an application by any person claiming to be entitled to vote, who is incapacitated by blindness or other physical cause from marking his ballot paper, or in case of any person claiming to be entitled to vote who makes a declaration that he is unable to read, the proceedings shall be as follows :—

1. The deputy returning officer shall, in the presence of the agents of the candidates, cause the vote of such person to be marked on a ballot paper in manner directed by such person, and shall cause the ballot paper to be placed in the ballot box;

2. The deputy returning officer shall state or cause to be stated in the voters' list, by an entry opposite the name of such person in the proper column of the said voters' list, that the vote of such person is marked in pursuance of this section, and the reason why it is so marked ;

3. The declaration of inability to read may be in the form mentioned in schedule C to this Act, and shall be made by the person claiming to be entitled to vote, at the time of the polling, before the deputy returning officer, who shall attest the same as nearly as may be according to the form mentioned in schedule D to this Act, and the said declaration shall be given to the deputy returning officer at the time of voting.

Proceedings in case an elector applies for a paper in case another has voted as such elector.

13. If a person representing himself to be a particular elector named on the voters' list applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly taking the oath authorized by law to be administered to voters at the time of polling, be entitled to mark a tendered ballot paper, but such tendered ballot paper shall be given to the deputy returning officer, and shall be placed by him in an envelope, which shall be securely sealed, and upon which he shall make an endorsement, indicating the election at which, and the polling subdivision in which, the same

same is used, and the deputy returning officer shall then deposit such envelope in the ballot box, and such tendered ballot paper shall not be counted by the deputy returning officer; and the name and number on the voters' list of such person shall be endorsed upon the counterfoil by the deputy returning officer, and the deputy returning officer shall upon a list, to be called the "tendered votes list," enter the name and number on the voters' list of such person, or cause the same to be so entered.

14. If any person whose name is not entered on the voters' list claims that his name ought to have been so entered, and that it has been improperly omitted therefrom, such person shall, upon, duly taking an oath according to the form mentioned in schedule E to this Act, or to the like effect, be entitled to mark a tendered ballot paper; and such tendered ballot paper, instead of being put into the ballot box, shall be given to the deputy returning officer, and shall be placed by him in an envelope and deposited in the ballot box, in the manner directed by the last preceding section with reference to ballot papers marked in pursuance thereof; and such tendered ballot paper shall not be counted by the deputy returning officer, and the name, place of residence and occupation or calling of such person shall be endorsed upon the counterfoil by the deputy returning officer, and the deputy returning officer shall enter or cause to be entered upon the tendered votes' list the name, place of residence, and occupation or calling of such person, and also a short description of the property in respect of which such person claims to have been entitled to have been entered on the voters' list, and whether it is as an owner, tenant or occupant of such property, that such person claims as aforesaid.

Proceedings in
case a person
claims to
vote and that
his name has
been impro-
perly omitted
from voters'
list.

15. A person claiming to be entitled to vote who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper, may, on delivering to the deputy returning officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the deputy returning officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the deputy returning officer shall immediately write the word "cancelled" upon such ballot paper, and preserve it to be returned to the returning officer.

Proceedings in
case ballot pa-
per cannot be
used.

16. During the time appointed for polling no person shall be entitled or permitted to be present in any polling place, candidates, clerks or agents, authorized to attend at such polling place, and such voters as are for the time being actually engaged in voting: Provided that it shall at all times be lawful for the deputy returning officer to have present or to summon to his assistance in such poll-

Who may be
present at
polling place.

ing place, any police constable or peace officer for the purpose of maintaining order, or of preserving the public peace, or preventing any breach thereof, or of removing any person or persons who may, in the opinion of such deputy returning officer, be obstructing the polling or willfully violating any of the provisions of this Act.

Counting the votes.

17. Immediately after the close of the poll in every polling place, the deputy returning officer shall, in the presence of the poll clerk, and of such of the candidates, or of their agents, as may then be present, open the ballot box and proceed to count the votes as follows:—

1. He shall examine the ballot papers, keeping them with their printed faces upwards, and shall take all proper precautions for preventing any person from seeing the numbers printed on the back of the paper;

2. Any ballot paper which has not on its back the name or initials of the deputy returning officer, or on which votes are given to more candidates than one, or on which anything except the number and initials or name of the deputy returning officer on the back is written or marked, by which the voter can be identified, shall be void, and shall not be counted;

3. The deputy returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall endorse "rejection objected to," if any objection be made to his decision;

4. The deputy returning officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement, in words as well as in figures, of the number of votes given for each candidate, and of the number of ballot papers rejected and not counted by him, which shall be made under the several heads:—

- (a) Name of electoral sub-division and of electoral division, and date of election;
- (b) Number of votes for each candidate;
- (c) Papers wanting signature or initials of deputy returning officer;
- (d) Papers rejected as voting for more candidates than entitled to;
- (e) Papers rejected as having a writing or mark by which voter could be identified;
- (f) Papers registered as unmarked or void for uncertainty;

5. Upon the completion of such written statement, it shall be forthwith signed by the deputy returning officer, the poll clerk, and such of the candidates, or their agents, as may be present, and desire to sign such statement;

6. No more than two agents for any candidate shall be entitled to be present at the same time at the counting of the votes.

18. Every deputy returning officer, at the completion of the counting of votes after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal, and the seals of such agents of the candidate as desire to fix their seals, and marked upon the outside with a short statement of the contents of such packet, the date of the day of the election, the names of the deputy returning officer, and of the polling sub-division and electoral division;

Deputy
Returning
Officers' duties
after votes are
counted.

- (a) The statement of votes given for each candidate and of the rejected ballot papers;
- (b) The used ballot papers which have been counted;
- (c) The rejected ballot papers;
- (d) The spoiled ballot papers;
- (e) The tendered ballot papers;
- (f) The counterfoils of the ballot papers; the unused ballot papers;
- (g) The tendered votes list, and the voters' list; the list of votes marked by the deputy returning officer, and a statement of the number of voters whose votes are so marked under the heads, "Physical incapacity," and "Unable to read," and the declarations of inability;
- (h) The commissions of the deputy returning officer and poll clerk, with their respective oaths of office, and the oaths in the forms N and M annexed thereto;

2. The deputy returning officer shall forthwith deliver such packets personally to the returning officer; and if he be unable to do so, owing to illness or other cause, he shall deliver such packets to a person chosen by him for the purpose of delivering the same to the returning officer; and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered; and shall take a proper receipt therefor;

Certain pack-
ets to be de-
livered to the
Returning
Officer.

Statement to
be made by
Deputies on
return of bal-
lot papers, &c.

3. The packets shall be accompanied by a statement made by the deputy returning officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) Counted ; (2) Rejected ; (3) Unused ; (4) Spoiled ; (5) Tendered ballot papers ; (6) Ballot papers given to voters who afterwards returned the same, declining to vote ; and (7) Ballot papers taken from the polling place ; which statement shall give the number of papers under each head, and is in this Act referred to as the "Ballot Paper Account."

Counting the
votes by the
Returning
Officer.

Casting vote.

19. The returning officer, after he shall have received the ballot papers and statements before mentioned of the number of votes given in each polling place, shall open such statements, and shall not open any other of the said sealed packets except that containing the commissions of the deputies and their clerks, and from the statements shall cast up the number for each candidate ; and as soon as he has thus ascertained the result of the poll, shall forthwith declare to be elected the candidate having the highest number of votes : Provided, that where an equality of votes is found to exist between the candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer may give such additional vote, but shall not in any other case be entitled to vote at an election for which he is returning officer.

RETURN, PRESERVATION OF DOCUMENTS, &c.

Returning
Officer to
transmit to
Clerk of the
Crown in
Chancery his
return, ballot
papers, &c.

20. The returning officer shall, within ten days after he has ascertained the result of the poll, make and transmit his return to the Clerk of the Crown in Chancery, and shall, at the same time, transmit to the Clerk of the Crown in Chancery, enclosed in a box or other covering, sealed with the seal of the returning officer, all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the deputy returning officer, statements relating thereto, declarations of inability to read or mark, packets of counterfoils, and voters' lists, with documents annexed thereto, sent by each deputy returning officer, endorsing on the packet a description of its contents, and the date of the election to which they relate, and also the name of the electoral division for which such election was held ; and the said return and the said packet, so directed as aforesaid, to be transmitted to the Clerk of the Crown in Chancery, may be transmitted by express or through the post-office, the same being first duly registered.

Officer to trans-
mit duplicate
of return to
each candi-
date.

21. The returning officer shall also, before transmitting his return to the Clerk of the Crown in Chancery, upon application deliver to each of the candidates, or their agents, or if no application be made, shall, within the same period, transmit by mail to each candidate a duplicate of such return ; which duplicate shall stand in lieu of an Indenture.

22. The Clerk of the Crown in Chancery shall retain, for the period of one year, all documents relating to an election forwarded to him, in pursuance of this Act, by a returning officer, and then, unless otherwise directed by a rule or order of one of Her Majesty's superior courts, or a judge thereof, shall cause them to be destroyed.

23. No person shall be allowed to inspect any rejected ballot papers in the custody of the Clerk of the Crown in Chancery, except under the rule or order of one of Her Majesty's superior courts, or a judge thereof; such rule or order to be granted by such court or judge on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order, for the inspection or production of ballot papers, may be made, subject to such conditions as to persons, time, place, and mode of inspection or production, as the court or judge making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery.

24. No person shall, except by order of a tribunal having cognizance of petitions complaining of undue returns or undue elections, open the sealed packets of counterfoils, after the same have been once sealed up; or be allowed to inspect any counted ballot papers in the custody of the Clerk of the Crown in Chancery; and such order may be made subject to such conditions as to persons, time, place and mode of opening or inspection as the tribunal making the order may think expedient: Provided that on making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent tribunal to be invalid.

25. All documents forwarded by a returning officer, in pursuance of this Act, to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery with the consent of the Speaker of the Legislative Assembly; and the Clerk of the Crown in Chancery shall supply copies of or extracts from the said documents to any person demanding the same, on payment for the same at the rate of ten cents for each folio of one hundred words, and in computing the number of words in such copy or extract every figure shall be counted as a word.

26. Where a rule or order is made for the production by the Clerk of the Crown in Chancery, of any document in his possession Evidence as to documents, ballot papers, &c., in certain cases.

possession relating to any specified election, the production of the document by such clerk or his agent, in such manner as may be directed by the rule or order, shall be conclusive evidence that such document relates to the specified election : and any endorsement appearing on any packet of ballot papers produced by such Clerk of the Crown in Chancery, or his agent, shall be evidence of such papers being what they are stated to be by the endorsement: and the production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number, and having a number marked thereon in writing, shall be deemed *prima facie* evidence that the person who voted by such ballot paper was the person who, at the time of such election, had prefixed to his name in the voters' list used for the polling subdivision in which he voted at such election, the same number as the number written on such counterfoil; or in the case of tendered ballot papers marked in the manner hereinbefore provided, by persons not named in the voters' list, the production from the proper custody of any such ballot paper, purporting to have been used at any election, and of a counterfoil, marked with the same printed number, and having a name written thereon (other than the name of the deputy returning officer), shall be deemed *prima facie* evidence that the person who voted by such ballot paper was the person whose name was so written as aforesaid on such counterfoil.

OFFENCES.

Offences.

27. No person shall :—

1. (a) Forge or counterfeit, or fraudulently alter, deface or fraudulently destroy any ballot paper, or the name or initials of the deputy returning officer signed thereon ; or
 - (b) Without due authority supply any ballot paper to any person ; or
 - (c) Fraudulently put into any ballot box any paper other than the ballot paper, which he is authorized by law to put in ; or
 - (d) Fraudulently take out of the polling place any ballot paper ; or
 - (e) Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the election ;
2. No person shall attempt to commit any offence specified in this section ;

3. Any person guilty of any violation of this section, shall be liable, if he be a returning officer, to imprisonment for any term not exceeding two years, with or without hard labour, and if he be any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

28. The property in the ballot boxes, ballot papers, counterfoils, and marking instruments procured for or used at an election, shall be in Her Majesty.

Property in
ballot boxes,
papers, &c., to
be in Her
Majesty.

29. Every officer and clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum of four hundred dollars.

MAINTAINING SECRECY OF PROCEEDINGS.

30. Every officer, clerk and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place; and shall not communicate before the poll is closed to any person any information as to the number on the voters' list of any person who has or who has not applied for a ballot paper or voted at that polling place;

Maintaining
secrecy of
proceedings.

2. No officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to the candidate for whom any voter at such polling place is about to vote or has voted;

3. No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate for whom any voter at such polling place is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at the polling place, or upon the counterfoil which was attached to such ballot paper, or as to the number prefixed to the name of such voter in the voters' list;

4. Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting, the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

5. No person shall, directly or indirectly, induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote;

Penalty for
contravening
this section.

6. Every person who acts in contravention of this section, shall be liable, on summary conviction before a stipendiary magistrate, police magistrate, or two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

Statutory de-
claration of
secrecy.

31. Every returning officer and every officer, clerk or agent, authorized to attend at a polling place, or at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and, if he is any other officer, or a clerk or an agent, in the presence of a justice of the peace or of the returning officer; and such statutory declaration of secrecy shall be in the form mentioned in Schedule F to this Act, or to the like effect.

No one com-
pellable to dis-
close his vote.

32. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

GENERAL PROVISIONS.

Candidates
may undertake
duties of an
Agent.

33. A candidate may himself undertake the duties which any agent of his, if appointed, might have undertaken, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act be authorized to attend.

Expressions in
the Act refer-
ring to Agents.

34. Where in this Act any expressions are used, requiring or authorizing any act or thing to be done, or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorized to attend, and as have in fact attended at the time and place where such act or thing is being done; and the non-attendance of any agents or agent at such time and place shall not, if the act or thing be otherwise duly done, invalidate in anywise the act or thing done.

Non-attend-
ance of Agents

Non-juridical
days.

35. In reckoning time for the purposes of this Act, Sunday and any day set apart by any Act of lawful authority for a public holiday, fast, or thanksgiving, shall be excluded; and where anything is required by this Act, to be done on any day which falls on such days, such thing may be done on the next juridical day.

36. The reasonable expenses incurred by the returning officer, and by the other officers and clerks, for printing, providing polling compartments, transmission of the packets required to be transmitted by this Act, and reasonable fees and allowances for services rendered under this Act, shall be paid to the returning officer out of the Consolidated Revenue Fund of the Province, and shall be distributed by him to the several persons entitled thereto, which distribution he shall report to the Lieutenant-Governor through the Provincial Secretary.

37. No election shall be declared invalid by reason of a non-compliance with the rules contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the forms contained in the schedules to this Act, if it appear to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such non-compliance or mistake did not affect the result of the election.

38. This Act shall, so far as is consistent with the tenor thereof, be construed as one with the Election Law of 1868, the Controverted Elections Act of 1871, the Election Act of 1873, and with any enactments otherwise relating to the subject matter of this Act; and in construing the said enactments, the mode of election and of taking the poll established by this Act shall, for the purposes of the said enactments, be deemed to be submitted for the mode of election or poll or taking the votes by poll, referred to in the said enactments; and any person applying for a ballot paper under this Act shall be deemed to tender his vote, or to assume to vote; and any person shall be deemed to have voted, who shall have put his ballot paper into the ballot box, or shall have caused the same to be put into the ballot box, or shall have delivered the same to the deputy returning officer or poll clerk, for the purpose of having the same placed in the ballot box.

Expenses incurred by officers to be refunded.

No election to be invalid for want of compliance with rules if in compliance with principles of the Act.

Construction of the Act in connection with election Acts.

What shall be deemed a tender of a vote, and a voting.

ENACTMENTS AMENDED AND REPEALED.

39. The following amendments are hereby made:—

(1.) Subsection one of section thirty-one of the Election Law of 1868, is hereby repealed, and the following is enacted in lieu thereof:—

“31. For the purpose of taking the votes at any such election the returning officer shall, by a commission under his hand and in the form ‘F’ of the said schedule, appoint some suitable person to be deputy returning officer for every such polling subdivision in which a polling place is to be opened and kept, and shall thereby require such deputy returning officer to open and hold the poll according to law, at the time

32 V., c. 21,
s. 31, cl. 1,
amended.
Appointment of Deputy Returning Officers.

"time and place fixed as hereinbefore provided, and at such poll to take and record in the voters' list the particulars relating to electors voting at the said polling place, which, by the Ballot Act of 1874, he is directed to take and record;"

S. 31 form F
amended.

(2.) Form "F" referred to in the thirty-first section of the Election Law of 1868 is hereby repealed and the form set forth in schedule G to this Act is substituted in lieu thereof;

S. 38, amended.

(3.) Section thirty-eight of the Election Law of 1868 is hereby repealed, and the following is enacted in lieu thereof;—

Deputies to
certify the
number of
voters.

"38. Every deputy returning officer shall, at the close of the poll, certify under his signature on the voters' list in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside;"

S. 49, cl. 1,
amended.

(4.) Form "M" referred to in subsection one of section forty-nine of the Election Law of 1868, is hereby repealed and the form in schedule H to this Act is substituted in lieu thereof;

S. 49, cl. 2,
amended.

(5.) Form "N" referred to in subsection two of section forty-nine of the Election Law of 1868, is hereby repealed, and the form set forth in schedule I to this Act is substituted in lieu thereof;

S. 50, amended. (6.) Section "fifty" of the Election Law of 1868 is hereby amended by substituting the word "Act" for the word "section" where it occurs therein;

S. 51, amended. (7.) Section "fifty-one" of the Election Law of 1868 is hereby repealed, and the following is enacted in lieu thereof:

Deputies to
make certain
returns to re-
turning officer.

"51. The deputy returning officer shall deliver or cause to be delivered to the returning officer, together with the packets and documents referred to in the Ballot Act of 1874, the said commissions of the deputy returning officer and poll clerk, their respective oaths of office, and the said oaths in the forms M and N which commissions and oaths shall be annexed to the voters' list;"

Construction
of the words
"Voters List."

(8.) From and after the passing of this Act the expression "voters' list" shall be substituted for, and read instead of, the expression "poll book," where in any enactment relating to elections of members of the Legislative Assembly of the Province of Ontario the expression "poll book" is used; and by the expression "voters' list," so to be substituted and read as aforesaid, shall be meant the copy or duplicate of the voters' list furnished in accordance with subsection four of section number twenty-six of the Election Law of 1868; which copy or duplicate, and also the list of voters referred to

32 Vic., c. 21,
s. 26, cl. 4 and
ss. 34, 35,
amended by
Schedule K.

to in sections numbers thirty-four and thirty-five of the Election Law of 1868, shall, from and after the passing of this Act, be prepared according to the form in schedule K to this Act;

(9.) Sections numbers "thirty-nine," "forty," "forty-four," "fifty-two" and "fifty-six," and subsection "two" of section "number forty-two" of the Election Law of 1868, are hereby repealed.

40. There shall be transmitted to each returning officer, with the writ of election, such a number of copies of The Election Law of 1868, The Controverted Elections Act of 1871, The Election Act of 1873, and of this Act, as shall be sufficient to supply such returning officer and each of his deputies at the election with one copy at least of the said Acts; and each copy of the said Acts shall be accompanied with a copious alphabetical index.

41. This Act shall not go into effect until the dissolution or expiration of the present Legislative Assembly.

42. This Act may be cited for all purposes as "The Ballot Act of 1874."

SCHEDULE "A."

Form of Ballot Paper.

(Front.)

Election for the County of (or , as the case may be)		1	DOE. (John Doe, Township of Southwold, County of Elgin, Yoeman.)	
Counterfoil, No.		2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)	
No. on Voters' List.		3	STILES. (Geoffrey Stiles, of 52 Talbot Street, London, Physician.)	
<i>Note.—The Counter- foil is to have a number to correspond with that on the back of the Ballot Paper.</i>		4	STILES. (John Stiles, of 31 Gros- venor Street, Toronto, Barrister at Law.)	

No. (Back.)

Election for the County of
(or, as the case may be).

18

NOTE.—Nothing else is to be printed on the back of the Counterfoil.

SCHEDULE B.

(Referred to in section number Four of this Act.)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter is to vote for one candidate.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right hand side, opposite the name of the candidate for whom he votes, thus \times .

The

The voter shall then fold up the ballot paper so as to show the name or initials of the deputy returning officer signed on the back, and leaving the compartment shall, without showing the front of the paper to any person, deliver such ballot so folded to the deputy returning officer and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more than one candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the officer, he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of Ballot Paper, given for illustration, the Candidates are JOHN DOE, RICHARD ROE, GEOFFERY STILES, and JOHN STILES, and the Elector has marked his ballot paper in favour of RICHARD ROE.

1	DOE. (John Doe, Township of Southwold, County of Elgin, Yeoman.)	
2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)	
3	STILES. (Geoffery Stiles, of 52 Talbot Street, London, Physician.)	
4	STILES. (John Stiles, of 31 Grosvenor Street, Toronto, Barrister-at-Law.)	

SCHEDULE C.

(Referred to in section Twelve of this Act.)

FORM OF DECLARATION OF INABILITY TO READ.

I, A. B., of _____, being numbered _____ on the voters' list for polling subdivision No. _____ in the Electoral Division of _____ do hereby declare that I am unable to read (*or that I am from physical incapacity unable to mark a voting paper, as the case may be*).

A. B. (His mark.)

The _____ day of A. D. 18 .

SCHEDULE D.

(Referred to in section Twelve of this Act.)

FORM OF ATTESTATION CLAUSE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF INABILITY TO READ.

I, the undersigned, being the Deputy Returning Officer for polling subdivision No. _____ for the Electoral Division of _____ do hereby certify that the above (*or as the case may be*) declaration having been first read to the above named A. B., was signed by him in my presence with his mark.

(Signed) C. D.,

Deputy Returning Officer for polling subdivision No. _____ in the Electoral Division of _____

Dated this _____ day of A. D. 18 .

SCHEDULE E.

(Referred to in section Fourteen of this Act.)

FORM OF OATH.

1. You swear (*or, solemnly affirm*) that you believe that your name ought to have been entered upon the voters' list to be used for the _____ polling subdivision of the Township (*or, as the case may be*) of _____ in the Electoral Division of _____ at the present election, and that your name has been improperly omitted from such voters' list.

(Add the statements necessary for Voters' oath in other cases.)

SCHEDULE F.

(Referred to in section Thirty-one of this Act.)

FORM OF STATUTORY DECLARATION OF SECRECY.

I solemnly promise and declare that I will not at this election for the Electoral Division of _____ (*as the case may be*) do anything

anything forbidden by section thirty of The Ballot Act of 1874, which section has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration.

SCHEDULE G.

(Referred to in section Thirty-nine of this Act.)

"FORM F."

"Commission of Deputy Returning Officer."

"To G. H. (insert his residence and legal addition.)

"Know you, that in my capacity of Returning Officer for
"the Electoral Division of I have appointed and do
"hereby appoint you to be Deputy Returning Officer for the
"polling subdivision of the Township (*or as the case
"may be*) of in the said Electoral Division, there to
"take the votes of the electors according to law, at the polling
"place to be by you opened and kept for that purpose, and
"you are hereby authorized and required to open and hold the
"poll of such election for the said polling subdivision of
"the said Township (*or as the case may be*) of on the
"day of A. D. 18 , at nine o'clock in the fore-
"noon, at (*here describe particularly the place in which the
"poll is to be held*), and there to keep the said poll open during
"the hours prescribed by law, and to do and perform in such
"polling place all acts and duties required to be performed by
"the Deputy Returning Officer appointed to act therefor, and
"to return to me on or before the day of A. D.
"18 , together with this commission, the several packets and
"documents required to be returned to me in the manner pre-
"scribed by section eighteen of The Ballot Act of 1874.

"Given under my hand at the _____ of _____ in the
"County (or as the case may be) of _____ this _____ day
"of A. D. 18 _____. " (Signed) A. B.,
"Returning Officer."

"(Signed) A. B.,
"Returning Officer."

SCHEDULE H.

(Referred to in section Thirty-nine of this Act.)

"FORM M."

"Oath of the Poll Clerk after closing of the poll."

"I, the undersigned, Poll Clerk for the polling sub-
"division of the Township (as the case may be) of in the
"Electoral Division of do solemnly swear (or if he be
"a person permitted by law to affirm, do solemnly affirm) that
"the annexed voters' list used in and for the said polling
"subdivision

" subdivision of the said Township (*or as the case may be*), under the direction of C. D., who has acted as Deputy Returning Officer for such polling subdivision, has been so used by me under his direction as aforesaid, and that the entries required by law to be made therein have been so made by me correctly and to the best of my skill and judgment.

"(Signed)

E. F.,

" Poll Clerk.

" Sworn (*or affirmed*) and subscribed before me at this day of A. D. 18 .

"(Signed)

X. Y.,

" Justice of the Peace.

"(Signed)

A. B.,

" Returning Officer.

"(Signed)

C. D.,

" Deputy Returning Officer."

NOTE.—*The foregoing oath is to be annexed to the voters' list used at the election.*

SCHEDULE I.

(Referred to in section Thirty-nine of this Act.)

" FORM N."

" Oath of the Deputy Returning Officer after the closing of the poll."

" I, the undersigned, Deputy Returning Officer for the polling subdivision of the Township (*or as the case may be*) of in the Electoral Division of do solemnly swear (*or if it be a person permitted by law to affirm, do solemnly affirm*) that to the best of my knowledge the annexed voters' list used in and for the said polling subdivision of the said Township (*or as the case may be*), was so used under my direction in the manner prescribed by law, and that the entries required by law to be made therein were correctly made.

"(Signed)

C. D.,

" Deputy Returning Officer.

" Sworn (*or affirmed*) before me at this day of A. D. 18 .

"(Signed)

X. Y.,

" Justice of the Peace.

" Or

A. B.,

" Returning Officer."

NOTE.—*The foregoing oath is to be annexed to the voters' list used at the election.*

SCHEDULE

SCHEDULE K.

Referred to in Section Thirty-nine of this Act.

FORM IN WHICH THE VOTERS' LIST TO BE FURNISHED TO DEPUTY RETURNING OFFICERS IS TO BE PREPARED.

NAMES OF THE VOTERS.	
Number prefixed.	
Description of Property in respect of which Voter is entitled to Vote.	Description of Proprietor, Tenant, or Owner.
Voter is entitled to Vote.	Besidence of Voter.
Descriptive of Deeendant, or Owner.	Legal addition.
Objections.	Swear or affirmed.
Refusal to swear or affirm.	Refusal to swear or affirm.
Column for mark indi- cating that the voter has voted.	Column for mark indi- cating that the voter has voted.
	REMARKS.

Note.—The Numbers directed by Section six of this Act to be prejred by the deputy returning officer to the names in the Voters' list are to be placed in the first column.

34 VICTORIA, CAP. 3.

AN ACT for amending the law relating to Election Petitions and for providing more effectually for the prevention of corrupt practices at Elections for the Legislative Assembly of Ontario.

[Assented to 15th February, 1871.]

Preamble.

WHEREAS it is expedient to amend the law relating to trial of Election Petitions, and to provide more effectually for the prevention of corrupt practices at Elections for the Legislative Assembly of Ontario: Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title of Act.

1. This Act may be cited for all purposes as "The Controverted Elections Act of 1871."

Definition of the word "Court."

2. The expression, "The Court" shall for the purposes of this Act mean the Court of Queen's Bench in Ontario; and such Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with reference to an Election Petition and the proceedings thereon, as it would have if such petition were an ordinary cause within its jurisdiction.

Interpretation of terms;

3. The following terms shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction, that is to say:

"Member."

"Member," shall mean a member of the Legislative Assembly of Ontario;

"Election."

"Election," shall mean an election of a member to serve in the Legislative Assembly of Ontario;

"Division"

"Division," shall mean an electoral division returning a member;

"Candidate."

"Candidate," shall mean any person elected to serve as a member, and any person who has been nominated as or declared himself a candidate at an election;

"Corrupt practices," or "corrupt practice," shall mean bribery and undue influence, and illegal and prohibited Acts in reference to elections—or any of such offences—as defined by Act of the Legislature.

*This definition
is repealed and
"corrupt practices"
defined by
36 V., c. 2, sec. 1.*

"Rules

"Rules of Court," shall mean rules to be made as hereinafter "Rules of Court."

"Prescribed," shall mean "prescribed by the rules of Prescribed."

4. For the purposes of this Act the expression "The Speaker," shall mean the Speaker of the Legislative Assembly ; and when the office of Speaker is vacant, the Clerk of the Legislative Assembly, or any other officer for the time being, performing the duties of the Clerk of the Legislative Assembly, shall be deemed to be substituted for and included in the expression "the Speaker."

5. From and after the passing of this Act a petition complaining of an undue return, or undue election of a member, may be presented to the Court by any one or more of the following persons :

(1.) Some person who voted, or who had a right to vote, at the election to which the petition relates ; or

(2.) Some person claiming to have had a right to be returned or elected at such election ; or

(3.) Some person alleging himself to have been a candidate at such election ;

And such petition is hereinafter referred to as an election petition.

6. The following enactments are made with respect to the presentation of an election petition under this Act;

(1.) The petition shall be in such form, and state such matters as shall be prescribed, and shall be signed by the petitioner or all the petitioners, if there be more than one ;

(2.) The petition shall be presented within twenty-one days after the return has been made to the Clerk of the Crown in Chancery of the member to whose election the petition relates, unless it question the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act of bribery to have been committed by the member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment or acts committed ;

(3.) Presentation of a petition shall be made by delivering it to the Clerk of the Court, or otherwise dealing with the same in manner prescribed ;

(4.)

Security for costs.

(4.) At the time of the presentation of the petition, or within three days afterwards, security for the payment of all costs, charges and expenses that may become payable by the petitioner,

(a.) To any person summoned as a witness on his behalf, or

(b.) To the member whose election or return is complained of (who is hereinafter referred to as the respondent), shall be given on behalf of the petitioner;

(5.) The security shall be to an amount of eight hundred dollars; it shall be given either by recognizance to be entered into by any number of sureties not exceeding four, or by a deposit of money in manner prescribed, or partly in one way and partly in the other.

Copy of petition to be sent to Returning Officer, who shall publish the same.

7. On presentation of the petition, the Clerk of the Court shall send a copy thereof by mail to the Returning Officer of the division to which the petition relates, who shall forthwith publish the same in the division.

Serving petition on Respondent.

8. Notice of the presentation of a petition under this Act and the nature of the proposed security accompanied with a copy of the petition shall, within five days after the day on which the security is given, or within such longer time as the Court may, under special circumstances of difficulty in effecting service allow, be served by the petitioner on the respondent, and it shall be lawful for the respondent where the security is given wholly or partially by recognizance, within five days from the day of the service on him of the notice, to object in writing to such recognizance on the ground that the sureties or any of them are insufficient, or that a surety is dead, or that he cannot be found or ascertained from the want of a sufficient description in the recognizance, or that a person named in the recognizance has not duly acknowledged the same.

Objections to security, how heard and decided.

Removal of objections.

If objections allowed are not removed, proceedings to cease.

When petition is at issue.

9. Any objection made to the security given shall be heard and decided on in the prescribed manner:—If an objection to the security is allowed, it shall be lawful for the petitioner, within five days after the day of such allowance, to remove such objection by a deposit in the prescribed manner of such sum of money as may be deemed by the Court or officer having cognizance of the matter proper to make the security sufficient. If on objection made the security is decided to be insufficient, and such objection is not removed in manner hereinbefore mentioned, no further proceedings shall be had on the petition; otherwise, on the expiration, without objection made, of the time limited for making objections, or after objection made, on the sufficiency of the security being established, the petition shall be deemed to be at issue.

10. The Clerk of the Court shall, as soon as may be, make out a list of all petitions presented under this Act, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of such list, hereinafter referred to as the election list, open to the inspection of any person making application. Such petitions, as far as conveniently may be, shall be tried in the order in which they stand in such list.

Clerk of the Court to make out the election list of petitions at issue.

Order in which petitions shall be tried.

TRIAL OF A PETITION.

11. The following enactments are made with respect to the trial of Election Petitions under this Act:

(1.) The trial of every election petition shall be conducted before a Judge of one of the Courts of Queen's Bench, Chancery or Common Pleas of Ontario, to be selected from a *rota* to be formed as hereinafter mentioned.

Petitions to be tried by a Judge chosen from each Court.

(2.) The members of each of the said Courts respectively shall, in Hilary Term, in the year of our Lord one thousand eight hundred and seventy-one, select by a majority of votes of the members of the Court, one of the Judges of such Court to be placed on the *rota* for the trial of election petitions during that year, and shall on or before the third day of Michaelmas Term in every year, select by a majority of votes of the members of the Court, one of the Judges of such Court to be placed on the *rota* for the trial of election petitions during the then ensuing year.

Manner of placing the Judge on the rota.

(3.) Any Judge placed on the *rota* shall be re-eligible in the succeeding or any subsequent year.

A Judge re-eligible.

(4.) In the event of the death or illness of any Judge for the time being on the *rota*, or his inability to act for any reasonable cause, the Court to which he belongs shall fill up the vacancy by placing on the *rota* another Judge of the same Court.

Filling up vacancies on the rota.

(5.) The Judges for the time being on the *rota* shall according to their seniority respectively try the election petitions standing for trial under this Act, unless they otherwise agree among themselves, in which case the trial of each election petition shall be taken in manner provided by such agreement.

Manner in which the trial shall be taken by the Judges.

(6.) When it appears to the Judges on the *rota* after due consideration of the list of petitions under this Act for the time being at issue, that the trial of such election petitions will be inconveniently delayed, unless an additional Judge or Judges be appointed to assist the Judges on the *rota*, each of the said Courts of Queen's Bench, Chancery and Common Pleas, in the order named, shall, on the requisition of such Judges

When the number of Judges on the rota may be increased.

Judges on the *rota*, and to the number of the additional Judges required, select, in manner hereinbefore provided, one of the Judges of the Court, to try election petitions for the ensuing year; and any Judge so selected shall, during that year, be deemed to be on the *rota* for the trial of election petitions.

Judge to try petitions without a jury.

12. Every petition shall, except where it raises a question of law for the determination of the Court, as herein mentioned, be tried by one of the Judges hereinbefore in that behalf mentioned (hereinafter referred to as the Judge), sitting in open Court without a jury.

Notice of trial.

13. Notice of the time and place, at which an election petition will be tried, shall be given not less than fourteen days before the day on which the trial is to take place in the prescribed manner.

Where the trial shall take place.

14. The trial of an election petition shall take place in the division, the election or return for which is in question: Provided always, that if it shall appear to the Court that special circumstances exist, which render it desirable that the petition should be tried elsewhere than in the division, it shall be lawful for the Court to appoint such other place for the trial as shall appear most convenient.

Judge may adjourn the trial.

15. The Judge at the trial may adjourn the same from time to time, and from any one place to any other place within the division, as to him may seem expedient.

Judge to determine the issue, and give certificate of such determination, with copy of his notes to the Speaker.

16. At the conclusion of the trial, the Judge who tried the petition shall determine whether the member, whose election or return is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall forthwith certify, in writing, such determination to the Speaker, appending thereto a copy of his notes of the evidence, and upon such certificate being given, such determination shall be final to all intents and purposes.

Report of Judge where charge is made of corrupt practice.

17. When any charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the Judge shall, in addition to such certificate, and at the same time, report in writing to the Speaker as follows:

(a.) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any, and which candidate at such election, and the nature of such corrupt practice;

(b.) The names of any persons who have been proved, at the trial, to have been guilty of any corrupt practice;

(c.)

(c.) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have extensively prevailed at the election to which the petition relates.

18. The Judge may at the same time make a special report to the Speaker as to any matters arising in the course of the trial, an account of which, in his judgment, ought to be submitted to the Legislative Assembly.

19. When upon the application of any party to a petition, duly made to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly, and any such special case shall be, as far as may be, heard before the Court, and the decision of the Court shall be final, and the Court shall certify to the Speaker its determination in reference to such special case : Provided always :

20. If it shall appear to the Judge on the trial of the said petition that any question or questions of law as to the admissibility of evidence, or otherwise, require further consideration by the Court, then it shall be lawful for the said Judge to postpone the granting of the said certificate until the determination of such question or questions by the Court, and for this purpose to reserve any such question or questions in like manner as questions are usually reserved by a Judge on a trial at *Nisi Prius*.

21. The Speaker shall, at the earliest practicable moment after he receives the certificate, and report or reports (if any) of the Court or Judge, communicate the same to the Legislative Assembly, and the Legislative Assembly shall forthwith thereafter order the same to be entered on its journals and give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as circumstances may require.

22. Where the Judge makes a special report, the Legislative Assembly may make such order in respect of such special report as they think proper.

23. Unless the Judge otherwise direct, any charge of a corrupt practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practice.

24. The trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat.

Prorogation
not to stop
trial.

25. The trial of an election petition under this Act shall be proceeded with notwithstanding the prorogation of the Legislative Assembly.

Service.

PROCEEDINGS.

26. An election petition under this Act shall be served as nearly as may be in the manner in which a writ of summons is served, or in such other manner as may be prescribed.

Joint respondents to petition.

27. Two or more candidates may be made respondents to the same petition, and their case may, for the sake of convenience, be tried at the same time; but for all the purposes of this Act, such petition shall be deemed to be a separate petition against each respondent.

Several petitions to same election how placed on election list.

28. Where under this Act more petitions than one are presented relating to the same election or return, all such petitions shall in the election list be bracketed together, and shall be dealt with as far as may be as one petition; but such petitions shall stand on the election list in the place where the last of such petitions would have stood if it had been the only petition presented, unless the Court shall otherwise direct.

JURISDICTION AND RULES OF COURT.

Judges on the rota may make rules of Court.

29. The Judges for the time being on the *rota*, or a majority of them, may from time to time make, and may, from time to time, revoke and alter general rules and orders (in this Act referred to as the rules of Court) for the effectual execution of this Act, and of the intention and object thereof, and the regulation of the practice, procedure and costs of election petitions, and the trial thereof, and the certifying and reporting thereon. Any general rules and orders made as aforesaid, and not inconsistent with this Act, shall be deemed to be within the powers conferred by this Act, and shall, while unrevoked, be of the same force as if they were enacted in the body of this Act. Any general rules and orders made, in pursuance of this section, shall be laid before the Legislative Assembly within three weeks after they are made, if the Legislative Assembly be then sitting, and if the Legislative Assembly be not then sitting, within three weeks after the beginning of the then next Session of the Legislative Assembly.

Such rules to be laid before the Legislature.

Practice in cases not provided for.

30. Until rules of Court have been made in pursuance of this Act, and so far as such rules do not extend, the principles, practice and rules on which election petitions, touching the election of members to the House of Commons of England, are

are at the time of the passing of this Act dealt with, shall be observed so far as consistently with this Act they may be observed by the Court and Judge.

RECEPTION, EXPENSES AND JURISDICTION OF THE JUDGE.

31. The Judge shall be received and attended at the place where he is about to try an election petition under this Act in the same manner, so far as circumstances will admit, as a Judge of Assize is received and attended at an assize town and sitting at *Nisi Prius*, and the expenses of such attendance shall be deemed to be part of the expenses of providing a Court.

Reception of,
and attend-
ance on the
Judge.

32. The travelling and other expenses of the Judge, and all expenses properly incurred by the Sheriff in attendance on the Judge, and providing a Court, shall be defrayed out of moneys to be provided by the Legislative Assembly.

Travelling and
other expenses
of the Judge
and Sheriff.

33. On the trial of an election petition under this Act the Judge shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority, as a Judge of one of the Superior Courts, and as a Judge of Assize and *Nisi Prius*, and the Court held by him shall be a Court of Record.

Powers of the
Judge.

WITNESSES.

34. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as on a trial at *Nisi Prius*. Witness, how
subpoenaed
and sworn.

35. On the trial of an election petition under this Act the Judge may, by order under his hand, compel the attendance of any person as a witness, who appears to him to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of Court. The Judge may examine any witness so compelled to attend, or any person in Court, although such witness is not called and examined by any party to the petition. After the examination of a witness as aforesaid by a Judge, such witness may be cross-examined by, or on behalf of the petitioner and respondent, or either of them.

Judge may
order attend-
ance of
witnesses.

Examination
of such wit-
nesses.

36. No person shall be excused from answering any question put to him on any trial under this Act, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by any person, claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate himself, shall be used on any witness not to
refuse to
answer.

When answers
of witnesses
are not to be
used against
them in
criminal pro-
ceedings.

any criminal proceeding against any such person other than an indictment for perjury, if the Judge shall give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the Judge.

Expenses of witnesses.

37. The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition under this Act, according to the scale allowed to witnesses on the trial of civil actions at the Assizes, may be allowed to such person by a certificate, under the hand of the Judge or of the Clerk of the Court, and such expenses, if the witness was called and examined by the Judge, shall be deemed to be part of the expenses of providing a Court, and in other cases, shall be deemed to be costs of the party calling the witness.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Withdrawal of petition.

38. An election petition under this Act shall not be withdrawn without the leave of the Court or Judge upon special application, to be made in and at the prescribed manner, time, and place.

Notice of withdrawal.

No such application shall be made until the prescribed notice has been given in the Division to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition.

Substitution of new petitioner

On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition: The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is, in the opinion of the Court or Judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in such security the original petitioner shall be liable to pay the costs of the substituted petitioner.

Order as to security where withdrawal is induced by corrupt bargain.

If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution.

Security to be given by substituted petitioner.

Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner.

If

If a petition is withdrawn the petitioner shall be liable to costs. pay the costs of the respondent, unless the Court otherwise orders.

Where there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners. All petitioners must join in withdrawal.

39. In every case of the withdrawal of an election petition under this Act, the Court or Judge shall report to the Speaker whether in its or his opinion the withdrawal of such petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, and if so, the circumstances attending the withdrawal. Court to report whether withdrawal was the result of a corrupt arrangement, etc.

40. An election petition under this Act shall be abated by the death of a sole petitioner, or of the survivor of several petitioners. Abatement of petition by death.

The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

On the abatement of a petition the prescribed notice of such abatement having taken place shall be given in the division to which the petition relates; and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court or Judge, in and at the prescribed manner, time and place, to be substituted as a petitioner. Notice of abatement to be given.

The Court or Judge may, if it or he think fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition. Substitution of new petitioner.

41. If before or during the trial of any election petition under this Act, any of the following events happen in the case of the respondent (that is to say) :

(1.) If he die;

On death of respondent,

(2.) If the Legislative Assembly have resolved that his seat is vacant;

vacation of seat, or

(3.) If he give in, and at the prescribed manner and time, notice to the Court or Judge that he does not intend to oppose, or further to oppose the petition; withdrawal from opposition, and notice thereof,

notice of such event having taken place shall be given in the division to which the petition relates, and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be admitted as a respondent others admitted as respondents.

respondent to oppose the petition, or so much thereof as may remain undisposed of, and such person shall on such application be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent; and any number of persons, not exceeding three, may be so admitted; and if either of such events happen during the trial, the Judge shall adjourn the trial in order to the giving of notice that such event has happened as herein provided.

*Respondent
not opposing
petition not to
appear as a
party or sit in
the Legislative
Assembly.*

42. A respondent who has given the prescribed notice that he does not intend to oppose or further oppose the petition, shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the Legislative Assembly until the Legislative Assembly has been informed of the report on the petition; and the Court or Judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker.

*Cases of double
return, where
the respondent
declines to
defend.*

43. When an election petition under this Act complains of a double return, and the respondent has given notice in the prescribed way that it is not his intention to oppose the petition, and no party has been admitted, in pursuance of this Act, to oppose the petition, then the petitioner, if there be no petition complaining of the other member returned on such double return, may withdraw his petition by notice addressed to the prescribed officer; and upon the receipt of such notice, the prescribed officer shall report the fact of the withdrawal of such petition to the Speaker; and the Legislative Assembly shall thereupon give the necessary directions for amending the said double return, by taking off the file the indenture by which the respondent so declining to oppose the petition was returned, or otherwise, as the case may require.

COSTS.

*Costs of pe-
tition.*

44. All costs, charges and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, with the exception of such costs, charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Court or Judge may determine, regard being had to the disallowance of any costs, charges or expenses which may, in the opinion of the Court or Judge, have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent, and regard being had to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or not on the whole successful.

The

The costs may be taxed in the prescribed manner, but according to the same principles as costs are taxed between solicitor and client in the Court of Chancery, and such costs may be recovered in the same manner as the costs of an action at law, or in such other manner as may be prescribed.

45. If any petitioner, in an election petition presented under this Act, neglect or refuse for the space of six months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges and expenses, and if such neglect or refusal be, within one year after such demand, proved to the satisfaction of the Court, in every such case every person who has entered into a recognition relating to such petition under the provisions of this Act, shall be held to have made default in his said recognition, and the prescribed officer shall thereupon certify such recognition to be forfeited; and such certificate shall have the same effect as if such recognition were estreated or otherwise proceeded upon for the like purpose from or in a court of law in Ontario, and all moneys received or recovered by reason or in pursuance of the estreating or otherwise proceeding on such recognition, shall be paid to the prescribed officer; and all such moneys and all moneys paid in as security on the presentation of an election petition, shall be applied as the Court or Judge may direct, in pursuance of the condition of the recognition herein provided for.

PUNISHMENT OF CORRUPT PRACTICES.

46. When it is found by the report of the Judge upon an election petition that any corrupt practice has been committed by or with the actual knowledge or consent of any candidate at an election, in addition to his election, if he has been elected, being void, he shall, during the eight years next after the date of his being so found guilty, be incapable of being elected to, and of sitting in the Legislative Assembly, and of being registered as a voter, and of voting at any election, and of holding any office at the nomination of the Crown, or of the Lieutenant-Governor, in Ontario, or any municipal office.

47. If, on the trial of any election petition, it is proved that any corrupt practice has been committed by any elector voting at the election, his vote shall be null and void.

48. If, on the trial of any election petition under this Act, any candidate is proved to have personally engaged at the election to which such petition relates, as a canvasser or agent in relation to the election, any person, knowing that such person has within eight years previous to such engagement, been found guilty of any corrupt practice by any competent legal tribunal,

Taxation and recovery of costs.

Recognizances when to be estreated.

Avoidance of election, and punishment of candidates guilty of corrupt practices.

This Section is printed as amended by 36 V., c. 2, sec. 3.

Vote by elector committing any corrupt practice void.

Penalty for employing agent previously found guilty of corrupt practices.

tribunal, or by the report of the Judge upon an election petition under this Act, the election of such candidate shall be void.

Punishment of persons found guilty of any corrupt practice.

49. Any person other than a candidate found guilty of any corrupt practice in any proceeding in which, after notice of the charge he has had an opportunity of being heard, shall, during the eight years next after the time at which he is so found guilty, be incapable of being elected to and of sitting in the Legislative Assembly, and of being registered as a voter, and of voting at any election, and of holding any office at the nomination of the Crown, or of the Lieutenant-Governor in Ontario, or any municipal office.

Removal of disqualification on proof that disqualification was procured by perjury.

50. If, at any time after any person has become disqualified by virtue of this Act, the witnesses or any of them on whose testimony such person shall have so become disqualified, shall, upon the prosecution of such person, be convicted of perjury in respect of such testimony, it shall be lawful for such person to move the Court to order, and the Court shall, upon being satisfied that such disqualification was procured by reason of perjury, order that such disqualification shall therefore cease and determine, and the same shall cease and determine accordingly.

MISCELLANEOUS.

Returning Officer may be sued for neglecting to return any person duly elected.

51. If any Returning Officer wilfully delays, neglects or refuses duly to return any person who ought to be returned to serve in the Legislative Assembly for any division, such person may, in case it has been determined on the hearing of an election petition under this Act, that such person was entitled to have been returned, sue the Officer having so wilfully delayed, neglected, or refused duly to make such return of his election in any Court of record in Ontario, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided such action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to such election.

Computation of time.

52. In reckoning time for the purposes of this Act, Sunday, and any day set apart by any Act of the Legislature of Ontario, for a public holiday, fast or thanksgiving, shall be excluded.

Controverted elections, how only to be tried.

53. From and after the time of the passing of this Act no election or return to the Legislative Assembly shall be questioned, except in accordance with the provisions of this Act; but any election or return which took place prior to the passing of this Act, may be questioned only in manner heretofore in use.

54. Where an election petition under this Act complains of the conduct of a Returning Officer, such Returning Officer shall, for all the purposes of this Act, except the admission of respondents in his place be deemed to be a respondent. Petition complaining of a Returning Officer.

55. A petition under this Act complaining of no return may be presented to the Court, and shall be deemed to be an election petition within the meaning of this Act, and the Court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow such petition to be tried by the Judge in manner hereinbefore provided with respect to ordinary election petitions. Petitions complaining of no return.

56. On the trial of a petition under this Act, complaining of an undue return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if he had presented a petition complaining of such election. Evidence on trials of undue return, and claiming seat.

57. Any person who, according to the law for the time being, is entitled to practise as an Attorney or Solicitor in Ontario, not being a member of the Legislative Assembly, may practise as agent or attorney, and any person who, by the law for the time being, is entitled to practise as a Barrister-at-Law in Ontario, may practise as a counsel, in cases of election petitions, and all matters relating to elections, before the Court or a Judge. Who may practise as agent, attorney or counsel in case of election petitions.

58. From and after the passing of this Act, the Act respecting Controverted Parliamentary Elections, Chaptered seven of the Consolidated Statutes of Canada, is repealed so far as the same applies to Elections to take place for the Legislative Assembly of Ontario, after the passing of this Act. This Section is amended by 36 V., c. 2, sec. 41.

36 VICTORIA, CAP. 2.

AN ACT to amend the law respecting elections of Members of the Legislative Assembly and respecting the trial of such Elections.

[Assented to 29th March, 1873.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

34 Vic. c. 3, s. 3,
repealed so far
as regards
“corrupt prac-
tices” and
“corrupt prac-
tice.”

Those terms
defined.

1. So much of the third section of The Controverted Elections Act of 1871, as defines “Corrupt Practices,” or “Corrupt Practice,” is hereby repealed, and the following is enacted in lieu thereof: “Corrupt Practices,” or “Corrupt Practice,” shall mean bribery, treating and undue influence, or any of such offences, as defined by this or any Act of Legislature, or recognized by the common law of the Parliament of England; also any violation of the forty-sixth, sixty-first, or seventy-first section of the Election Law of 1868; and any violation of the sixty-sixth section of such last mentioned Act during the hours appointed for polling.

32 V. c. 21,
s. 61, repealed.

2. Section sixty-one of the said Act is hereby repealed, and the following is enacted in lieu thereof:—

Furnishing
entertainment
forbidden, ex-
cept at resi-
dence of him
furnishing.

“(61.) No candidate for the representation of any electoral division shall, nor shall any other person, either provide or furnish drink or other entertainment at the expense of such candidate or other person, to any meeting of electors assembled for the purpose of promoting such election, previous to or during such election, or pay or promise or engage to pay for any such drink or other entertainment, except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of electors by or at the expense of any person or persons at his, her or their usual place of residence.”

32 V. c. 21,
s. 60.
34 V. c. 8, s. 46,
repealed.

3. Section sixty-nine of the Election Law of 1868, and section forty-six of the Controverted Elections Act of 1871, are hereby repealed, and the following is enacted in lieu thereof:—

Election of
candidate on
corrupt prac-
tices void,

“(46. (1.) When it is found upon the report of a judge upon an election petition that any corrupt practice has been committed by any candidate at an election, or by his agent, whether with or without the actual knowledge and consent of such candidate, the election of such candidate, if he has been elected, shall be void.”

“(2.)

"(2.) When it is found by the report of a judge upon an election petition that any corrupt practice has been committed, by or with the actual knowledge or consent of any candidate at an election, in addition to his election, if he has been elected, being void, he shall, during the eight years next after the date of his being so found guilty, be incapable of being elected to, and of sitting in the Legislative Assembly, and of being registered as a voter and of voting at any election, and of holding any office at the nomination of the Crown or of the Lieutenant-Governor, in Ontario, or any municipal office."

4. The following clause is to be added to the oath or affirmation required by law, to be taken by the assessor, in verification of his assessment roll: "And I further certify and swear (or affirm as the case may be) that I have not entered the name of any person at too low a rate, in order to deprive such person of a vote, or at too high a rate in order to give such person a vote, or for any other reason whatever."

5. No person who, by the second section of the Election Law of 1868, is disqualified and incompetent to vote, shall act as agent for any candidate at any election; and any person violating this enactment shall be subject to the same penalty as if he had voted at the said election.

6. The following clause is to be added to the oath or affirmation which a person offering to vote may be required to take under the forty-first section of the said Act: "And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election."

EXPENSES OF ELECTIONS.

7. No payment (except in respect of the personal expenses of a candidate), and no advance, loan, or deposit, for the purposes of the election, shall be made by or on behalf of any candidate at an election, before, or during, or after such election, otherwise than through an agent or agents whose name and address, or names and addresses, has or have been declared in writing to the returning officer on or before the day of nomination; or through an agent or agents to be appointed in his or their place as herein provided; and no person shall make any such payment, advance, loan, or deposit, for the purposes of the election, otherwise than through such agent or agents under penalty of being deemed guilty of a misdemeanor.

8. It shall be the duty of the returning officer to announce from the hustings on the day of nomination, and at the expense

Returning officer to publish names and addresses of agents.

expense of the candidate, to publish, on or before the day of nomination, the name and address or the names and addresses of the agent or agents appointed in pursuance of the preceding section; such publication to be in some newspaper, if such there be, published or circulated within the electoral division where the election is to take place.

On death or incapacity of an agent, appointment of another.

9. In the event of the death or legal incapacity of any agent appointed in pursuance of the preceding section, the candidate shall forthwith appoint another agent in his place, by giving notice to the returning officer of the name and address of the person so appointed, which shall in like manner be forthwith published by the returning officer at the expense of the candidate.

Claims on candidate in respect of any election, when to be sent in to agent.

Proviso.

Proviso.

Proviso.

A detailed statement of election petitions, etc., to be signed and sent by agents to returning officers who shall publish same.

Penalty.

10. All persons who have any bills, charges, or claims upon any candidate for or in respect of any election, shall send in such bills, charges, or claims, within one month from the day of the declaration of the election, to such agent or agents as aforesaid; otherwise such persons shall be barred of their right to recover such claims and every or any part thereof: Provided always, that in case of the death within the said month of any person claiming the amount of such bill, charge, or claim, the legal representative of such person shall send in such bill, charge or claim, within one month after obtaining probate, or letters of administration, as the case may be; or the right to recover such claim shall be barred as aforesaid: Provided also, that such bills, charges, and claims, shall and may be sent in and delivered to the candidate, if, and so long as, during the said month, there shall, owing to death or legal incapacity, be no such agent: Provided that the agent shall not pay or allow any bill, charge or claim without the authority of the candidate, as well as the approval of the agent.

11. A detailed statement of all election expenses incurred by or on behalf of any candidate, including such excepted payments as aforesaid, shall, within two months after the election (or in cases where by reason of the death of the creditor, no bill has been sent in within such period of two months, then within one month after such bill has been sent in), be made out and signed by the agent, or if there be more than one, by every agent who has paid the same (including the candidate in case of payments made by him), and delivered, with the bills and vouchers relative thereto to the returning officer; and the returning officer for the time being shall, at the expense of the candidate, within fourteen days, insert or cause to be inserted an abstract of such statement, with the signature of the agent thereto, in some newspaper published or circulating in the electoral division where the election was held: and any agent or candidate who makes default in delivering to the returning officer the statement required by this section shall incur a penalty not exceeding twenty-five dollars for every day during

during which he so makes default ; and no agent or candidate shall wilfully furnish to the said returning officer an untrue statement under penalty of being deemed guilty of a misdemeanor.

12. The said returning officer shall preserve all such bills and vouchers, and shall, during six months after they have been delivered to him, permit any voter to inspect the same on payment of a fee of twenty-five cents.

PRELIMINARY EXAMINATION OF PARTIES, ETC., AND PRODUCTION OF DOCUMENTS.

13. Any party to an election petition, whether petitioner or respondent, may, at any time after such petition is at issue, be examined by or before an examiner, in the manner hereinafter directed, by a party adverse in point of interest, touching any matter raised by such petition ; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief ; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party examined : Provided that such explanatory examination must be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the court or a judge.

14. Where any petition has been filed claiming the seat for a candidate, such candidate, although not a party to the petition, may be orally examined as if he were a petitioner.

15. Any party to be examined orally, under the provisions of this Act, shall be so examined by or before a county court judge, or before a registrar appointed under the Controverted Elections Act of 1871, or before any barrister-at-law named for the purpose by the judges on the rota, or such of them as may have been selected and appointed for the trial ; and such examination shall take place in the presence of the parties, their counsel, agents or attorneys ; and the party so examined orally shall be subject to cross-examination and re-examination ; and such examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode now in use in the Courts of Common Law on a trial at *nisi prius*, or in Chancery at the hearing of a cause.

16. The depositions taken upon any such oral examination as aforesaid, shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative ; and when completed shall be read over to the witness,

Depositions,
how made.

Proviso. witness, and signed by him, in the presence of the parties, or of such of them as may think fit to attend : Provided always that, in case the witness shall refuse or be unable to sign the said depositions, then the examiner shall sign the same ; and such examiner may, upon every examination, state any special matter to the court if he shall think fit : Provided also that it shall be in the discretion of the examiner to put down any particular question or answer, if there should appear to be any special reason for so doing ; and any question or questions which may be objected to shall, at the request of either party, be noticed or referred to by the examiner in or upon the depositions ; and he shall state his opinion thereon to the counsel, agents, attorneys, or parties ; and if requested by either party he shall refer to such statement on the face of the depositions.

**Depositions,
transmission
to the court,
and copies of.**

17. When the examination before the examiner shall have been concluded, the original depositions, authenticated by the signature of such examiner, shall be transmitted by him to the office of the court to be there filed ; and any party to the petition may have a copy thereof, or of any part or portion thereof, upon payment for the same in such manner as shall be prescribed by the court in that behalf.

**Compelling at-
tendance of
witnesses.**

18. The attendance of a party or other person for oral examination or cross-examination before the examiner, may be required by a writ of *subpœna ad testificandum* or *duces tecum*, in like manner as such party or person would be required to attend at the trial of the petition ; and any party or person, upon being served with such writ, shall be bound to attend before the examiner ; but such party or person shall be entitled to the like payment for attendance and expenses, as if he had been subpœnaed to attend upon the trial.

**Attendance of
witnesses be-
ing prisoners.**

19. The sheriff, gaoler, or other officer, having the custody of any prisoner, may take such prisoner for examination before the examiner, under the authority of this Act, if so ordered by the court or a judge.

**Forty-eight
hours' notice of
examination.**

20. Forty-eight hours' notice of any such oral examination or cross-examination shall be given to the opposite party or parties.

**Penalty for
non-attend-
ance or refusal
to answer of
witness.**

21. Any party or person refusing or neglecting to attend at the time and place appointed for his examination or cross-examination, or refusing to be sworn or to answer any lawful question put to him by the examiner, or by any party entitled so to do, or his counsel, agent or attorney, may be punished as for a contempt of court : Provided always, that if any witness shall demur or object to any question or questions which may be put to him, the question or questions so put, and the demurrer

**Demurrer to
questions.**

demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the office of the court to be there filed; and the validity of such demurrer or objection shall be decided by the court or a judge; and the costs of and occasioned by such demurrer or objection shall be in the discretion of the court or judge.

22. Any party to a petition shall be entitled to use, upon the trial of such petition, depositions taken by or before the examiner, in accordance with the provisions of this Act: Provided that where such party uses any portion of a deposition so taken, it shall be competent for the party against whom it is used to put in the entire evidence so taken, as well that in chief as that in explanation.

23. Any party to an election petition, whether petitioner or respondent, may, at any time after such petition is at issue, obtain a rule, requiring the adverse party to produce within ten days after the service thereof, under oath, all documents in his custody or power relating to the matters in question, saving all just exceptions; and to deposit the said documents with the Clerk of the Crown in the Court of Queen's Bench; and upon such documents being produced, the party requiring such production and his agent or attorney may inspect the same and take examined copies thereof: Provided that when any person upon whom a rule to produce has been served wishes to avail himself of any such exception as above mentioned, he must on his affidavit on production assign a sufficient reason why he should not produce and deposit the same in manner aforesaid.

24. The rule referred to in the preceding section shall be a rule in the nature of a side bar rule, and shall issue in vacation as in term, and may be obtained on the last as well as other days of term; and such rule shall be dated the day of the week, month and year, on which the same was drawn up, and need not specify any other time or date; and such rule may be obtained by the party requiring the same, his agent or attorney, from the Clerk of the Crown and Pleas in the Court of Queen's Bench.

25. The rule for the production of documents shall not require personal service, and it shall be sufficient to serve the same upon the agent or attorney of the party.

26. The affidavit on production to be made by the party who has been served with the rule for production, may be in the form or to the effect set forth in the Schedule to this Act.

27. Any party neglecting or refusing to obey a rule for the production of documents may be punished as for a contempt.

SCRUTINY.

On scrutiny,
judge may ap-
point day and
place.

28. Where, in consequence of an election petition being presented, it becomes necessary to enter into a scrutiny of the votes polled at the election brought in question by such petition, the judge may make provision for holding in every local municipality in the electoral division, the election for which is questioned, a scrutiny of the votes polled in such municipality, in case of there being any votes therein which are objected to; and for this purpose may, by order, appoint a day and place within the municipality, or each of the municipalities respectively, as the case may be, for entering into the scrutiny, which day or days shall be a convenient time before the day on which the trial by the judge is to be held, as provided by the fourteenth and fifteenth sections of the Controverted Elections Act of 1871.

Notice of time
and place of
scrutiny.

29. Notice of the time and place for entering into the scrutiny shall be given not less than fourteen days before the day appointed for entering into the same in the prescribed manner.

Scrutiny be-
fore the Judge,
or his delegate.

30. The scrutiny may be before the judge, or the judge may appoint his registrar, or some other person, being a barrister and competent for the purpose, to act in his stead.

Jurisdiction
and powers of
the judge when
the scrutiny is
before him in
person.

31. Where the scrutiny is entered into before the judge in person the provisions of law as to the jurisdiction of the judge upon the trial of an election petition in the ordinary manner, shall apply, as nearly as may be, to the proceedings upon such scrutiny, and the said judge shall possess the like powers and authority as to all matters arising upon such scrutiny, as are possessed by him upon a trial in the ordinary manner.

Powers of
Judge's dele-
gate on scruti-
ny before him.

32. Where the scrutiny is before a registrar or other person appointed by the judge, such registrar or person shall, except as hereinafter provided, have the same powers and authority for the time being in all matters connected with the scrutiny and for conducting the same, as the judge himself would have if personally present and acting.

Delegate of
judge to take
evidence in
writing.

33. It shall be the duty of any registrar or other person, acting under an appointment made in pursuance of the preceding section, to take down in writing the evidence given before him upon the scrutiny.

Delegate may
decide or re-
serve questions
of law or fact.

34. At or before the conclusion of the scrutiny in each municipality, the registrar, or other person so acting as aforesaid, shall either decide the questions of law and fact raised before him, or shall reserve the same, or any of them, for the decision of the judge at the trial; and shall make a note in writing

Note and an-
nouncement of
decision to be
made.

writing of every such decision or reservation, as the case may be, for the information of the judge; and shall publicly announce such decision or reservation for the information of the public and the parties interested.

35. If any party be dissatisfied with any decision of the registrar, or other person so acting as aforesaid, he may object thereto before the judge at the trial to be had as aforesaid: Provided, that within seven days from the conclusion of the scrutiny, he gives notice in the manner hereinafter mentioned to the opposite party of his intention to so object, and the judge may, in his discretion, refuse at the trial before him to consider any points not raised before the registrar, or other person so acting as aforesaid, for his decision; and in case the judge does consider the same, and allow the appeal on a ground not distinctly taken before the registrar, or other person so acting as aforesaid, the judge may order the appellant, though successful, to pay the costs of and incidental to the appeal.

36. The party intending to object shall within eight days deliver in person, or by his attorney or agent, to the registrar a written notice of his intention to object; and he shall also in person, or by his attorney or agent, serve a like notice upon the opposite party, his attorney or agent, within eight days from the conclusion of the scrutiny.

37. The notice shall mention the grounds of objection, and may be in the form following or to the like effect:—

Court for the Trial of an Election Petition for the
 Between { *A. B., Petitioner,*
and
Y. Z., Respondent.

Take notice that the Petitioner, *A. B.* (*or as the case may be*), intends to appeal to the Honourable *the Judge* of the said Court, against the decision of *Mr. _____*, the Registrar of the said Court (*or as the case may be*), as to the vote of *C. D.*, of *_____*, who appears in the Petitioner's (*or as the case may be*) particulars as No. *_____* in the *_____ schedule*, on the following grounds:—

(State shortly ground or grounds of appeal.)

Dated the _____ day of A.D. 18 .

To *A. B., Petitioner,*
Registrar,
or to Y. Z.,
Respondent,
or W. X.,
Agent for Respondent.

or *E. F.,*
Agent for Petitioner.

COSTS.

COSTS.

Costs.

38. Except where otherwise provided, the costs of any oral examination or cross-examination, or of the production of documents, in pursuance of this Act, shall, subject to the discretion of the court or a judge, be deemed costs in the cause.

MISCELLANEOUS.

Power to
punish for
contempt, and
enforce rules.

39. In any case arising under this Act, or under the Controverted Elections Act of 1871, any judge for the time being on the rota for the trial of election petitions, or any judge of the Court of Queen's Bench, shall, for the purpose of enforcing obedience to any rule, or for punishing any contempt whatever, have the same power of granting a writ of attachment, to be issued from the Court of Queen's Bench in term or vacation, as the court has in term time to enforce obedience to any rule or for punishing any contempt whatever.

Execution
may issue to
enforce judge's
order for costs.

40. It shall not be necessary, in any proceedings upon an election petition, to make a judge's order for the payment of costs a rule of the Court of Queen's Bench, but writs of execution may be issued from the said court, in pursuance of the said order, in the same manner, and shall have the same force and effect as if the same had been issued in pursuance of a rule of Court.

34 V., c. 8, s. 57,
repealed.

41. Section fifty-seven of the Controverted Elections Act of 1871 is hereby repealed, and the following is enacted in lieu thereof:—

Who may
practise as
agent, attor-
ney, or counsel.

57. Any person who, according to the law for the time being, is entitled to practise as an attorney or solicitor in Ontario, may practise as an agent or attorney, and any person who, by the law for the time being, is entitled to practise as a barrister-at-law in Ontario, may practise as counsel in cases of election petitions, and all matters relating to elections before the court or a judge.

Short title.

42. This Act may be cited for all purposes as "The Election Act of 1878."

SCHEDULE.

(Section 26.)

(Form of Affidavit on production of Books and Papers.)

In the Queen's Bench.

Form of affida-
vit on produc-
tion.

Election for holden on the day of A.D.

I,

I, of make oath and say:—

1. That I have in my possession or power the documents relating to the matters in question set forth in the first and second parts of the first schedule hereto annexed.
2. I object to produce the said documents set forth in the second part of the said first schedule.
3. (*State upon what grounds objection is made, and verify the facts as far as may be.*)
4. I have had, but have not now in my possession or power the documents relating to the matters in question set forth in the second schedule hereto annexed.
5. The last mentioned documents were last in my possession or power on (*state when*).
6. *State what has become of the last mentioned documents, and in whose possession they now are.*)
7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had in my own possession, custody or power, or in the possession, custody or power of my agents or attorneys, agent or attorney, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, minutes, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second schedule hereto annexed.

Sworn, &c.

38 VICTORIA, CAP. 3.

An Act to further amend the Laws affecting Elections of Members of the Legislative Assembly, and the Trial of such Elections.

[Assented to 21st December, 1874.]

HER Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

After petition against return, any one authorized to petition may petition for corrupt acts by candidate not returned.

1. In case a petition is presented against the return of any member, the respondent or any other person now authorized by law to present an election petition, may, within fifteen days after the service of the petition against the return, file a petition complaining of any unlawful and corrupt act by any candidate at the same election who was not returned, whether the seat is or is not claimed by him or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent or at such other time as may be appointed.

Duties of Courts and Clerk of Q. B. transferred to Court and Clerk of Error and Appeal

2. Whereas in consequence of the pressure of other business in the Court of Queen's Bench, it is desirable to relieve that Court of the duties assigned to it by the Controverted Elections Act 1871, and the Election Act of 1873, the duties and powers assigned by the said Acts, to the said Court of Queen's Bench, and to the Clerk of the Crown and Pleas in the said court, shall, with respect to future elections, belong to the Court of Error and Appeal, and to the clerk thereof for the time being; and the practice and proceedings, including the mode of enforcing decisions as to costs and otherwise, shall in all respects be the same as now provided or in force for the said Court of Queen's Bench, and the said Clerk of the Crown and Pleas, until and unless such practice and proceedings are altered by the Court of Error and Appeal, or a majority of its judges, of whom the Chief Justice is to be one. This section is not to be construed as relieving the judges of the Court of Queen's Bench from being appointed or acting as judges on the rota.

Practice as heretofore till varied.

Appeal ; security for costs ;

setting down for hearing ;

3. In case any party to an election petition under the Controverted Elections Act of 1871, or under the Election Act of 1873, or under this Act, is dissatisfied with the decision of a judge under the said Acts, or any or either of them, on any question of law or of fact, and desires to appeal against the same, he may, within eight days from the day on which the judge has given the decision, deposit with the Clerk of the Court of Error and Appeal the sum of one hundred dollars by way of security for costs; and thereupon the clerk shall set

set the matter of the said petition down for hearing before the said court of Error and Appeal at an early day to be appointed by the said Court of Error and Appeal, or a judge thereof; and the party so appealing shall thereupon within three days, or such further time as the said Court of Error and Appeal or a judge thereof may upon application allow, give to the other parties affected by the said appeal, or their respective attorneys or agents by whom such parties were represented in the trial of the said petition, notice in writing that the matter of the said petition has been so set down to be heard in appeal as aforesaid; and in and by the same notice the said party so appealing as aforesaid may, if he desires, limit the subject of the said appeal to any special and defined question or questions; and the said appeal shall thereupon be heard and determined ^{hearing,} by the said Court of Error and Appeal; and such judgment shall be pronounced, both upon questions of law and of fact, as in the opinion of the said court of Error and Appeal should have been delivered by the judge whose decision is appealed against; and the Court of Error and Appeal may make such order as to the return of the said deposit and as to the costs of the said appeal as the said Court may think just; and the clerk of the said Court of Error and Appeal shall thereupon certify to the Speaker or (if there is no Speaker) to the Clerk of the House the judgment and decision of the said Court upon the several questions and matters of fact, as well as of law, upon which the judge whose decision is appealed against might otherwise have determined or certified in pursuance of any or either of the said Acts, in the same manner as the judge whose decision is appealed against would otherwise have done; and the said judgment or decision shall be final to all intents and purposes.

3a. The Court of Error and Appeal shall have all the powers and duties as to amendment and otherwise of the court or judge from which the appeal is had, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in court, by affidavit or by deposition taken before any judge or other person whom the court may direct.

3b. Instead of certifying as aforesaid, the court, upon such conditions as to costs and otherwise as the court may think fit, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case back to the court or judge who tried the same, or to some other judge upon the rota and subject to the directions given by the said Court of Appeal in respect thereof the case shall be thereafter proceeded with in other respects as if there had been no appeal.

4. Before any member elect of the Legislative Assembly is permitted to take the oath as a member, he shall file with the Clerk of the House an affidavit duly sworn before such Clerk, that (except in respect of his personal expenses) he has not made before, or during, or after the election, and will not make, ^{Member elect before taking oath as member to file affidavit as to election expenses, &c.}

make, any payment, advance, loan, or deposit for the purposes of the election, otherwise than through his agent or agents duly appointed by him under "The Election Act of 1873;" and such affidavit shall state the name, or names, of the agent, or agents, theretofore appointed; and shall further state that the deponent has not been guilty of any other corrupt practice in respect of the said Election; and may be in the following form or to the like effect:—

"I,
" in the County of
" elected to represent the Electoral Division of the
" (as the case may be), in the
" Legislative Assembly of the Province of Ontario, make oath
" and say:—That, except in respect of my personal expenses,
" I have not made, before or during or since the election, any
" payment, advance, loan or deposit for the purposes of the
" election last held for the said Electoral Division, otherwise than
" through A.B. and C.D., my agents duly appointed under the
" Election Act of 1873; and that I will not hereafter make any
" payment, loan or deposit in respect of the said election, except
" through an agent or agents appointed under the said Election
" Act. I further say, that I have not been guilty of any other
" corrupt practice in respect of the said Election."

Sworn before me, this

day of

A.D. 18

Clerk of the Legislative Assembly of the Province of Ontario.

Assessment
and Roll for
1874, voters'
lists and rates,
&c., declared
valid.

5. Every Assessment and Assessment Roll of the several municipalities of Ontario for the year one thousand eight hundred and seventy-four, and the rates levied thereunder, every voters list prepared from such rolls, and all proceedings had in respect of the said matters, or any or either of them, shall be adjudged valid for all purposes, notwithstanding that the provisions of "the Assessment Act of 1869," or any of them were observed, instead of those of the Act entitled "An Act to amend the Assessment law" (1874), and notwithstanding the failure to observe and carry out the provisions of the last said mentioned Act or any of them;

Proviso as to
assessments
appealed from

(1.) Provided always, that any person who lodged an appeal either to a Court of Revision or to the County Judge complaining that the assessment of such person was too high, or that he was improperly assessed, and whose appeal has in consequence of a mistake in the time of holding such Court of Revision, not been heard and determined on the merits may, in case he has paid the amount of such assessment, upon proof that such assessment is excessive or erroneous, recover back from the municipality the amount of the excess or error, by action in the Division Court within the limits of which the municipality lies wholly or in part, and such Division Court shall have cognizance of the matter and hear and determine the same,

same, notwithstanding the amount claimed may exceed one hundred dollars;

(2.) That no such suit shall be brought till after the expiration of one month after written notice demanding payment of the amount claimed has been served upon the municipality, and every such suit must be commenced within six months after the passing of this Act, and not after;

(3.) That in case of an order being made by the Division Court for repayment by a municipality and payment to the plaintiff in pursuance thereof, the clerk of such municipality shall certify the facts to the clerk of the county municipality, in case a county rate has been levied, and the county shall thereupon refund to the municipality the amount which the plaintiff in the action in the Division Court has shown himself to have been over assessed or improperly assessed for county rate, on the footing of the erroneous assessment.

6. Every voters' list which may be prepared from such Assessment Rolls, and which, before the Returning Officer receives the Writ of Election, is certified by the Judge or Acting Judge of the County Court under the provisions of the seventh or ninth sections of the Act of 1874, entitled, "An Act respecting Voters' Lists," as the revised list, or as the revised and corrected list, of voters for a municipality, shall be deemed valid for the purposes of the next general election for members to serve in the Legislative Assembly, and for every subsequent election of a member to serve in the Legislative Assembly, though such list may not be filed with the Clerk of the Peace for the time heretofore required, or though there was any irregularity in the previous proceedings.

7. In case a list is certified by a judge for any municipality before the Writ of Election is received by the Returning Officer, but is not filed with the Clerk of the Peace, the Returning Officer shall forthwith cause to be prepared from the original revised list retained by the judge, or from the duplicate in the custody of the Clerk of the Municipality, proper lists of voters for the Deputy Returning Officers. The judge or the clerk upon being requested so to do, shall forthwith deliver to the Returning Officer, or to any person authorized by him in writing to receive the same, the original or duplicate list in the possession of the judge or clerk, or a certified copy thereof. Any clerk failing to deliver to the Returning Officer or to a person authorized as aforesaid, the duplicate list in the possession of the said clerk, or a certified copy thereof, immediately upon being requested so to do, shall be subject to a penalty of five hundred dollars. In case the Returning Officer receives the original, or a duplicate copy thereof, he shall immediately after he has prepared lists for the Deputy Returning Officer, return the original or duplicate to the person from whom he received the same.

The case of no voters' list being certified by the judge.

8. In case no list of voters has been certified by the Judge or acting Judge under the said Act respecting voters lists, the list to be used at an election to the Legislative Assembly, shall be the last list of voters certified and delivered to the Clerk of the Peace under the Election Law of 1868.

The case of time for appealing from by-law for dividing in polling sub-divisions having expired, and no voters' lists filed &c.

9. In case a municipal council has by by-law divided the municipality into polling sub-divisions, and the time for appealing from the by-law has expired, and no lists of voters for such sub-divisions have been filed with the Clerk of the Peace as required by the Election Law of 1868, but a list of the voters of the municipality or of the several wards therein has been duly certified by the judge, the said list shall be the proper list of voters for the election; and the returning officer shall cause the names on the said voters' list to be divided into separate lists for the deputy returning officers in accordance with the polling sub-divisions provided for by the by-law.

Clerks of the Peace of municipalities to furnish copies of last revised voters list.

10. The Clerk of the Peace and the Clerk of any municipality, having the custody of the list of voters of any municipality or part of any municipality or place, shall furnish a certified copy of such list then last revised and corrected to any person who shall require such copy on being paid for the same by such person at the rate of six cents for every ten voters whose names are on such list. The said officers may furnish printed copies, and the officer shall verify any alterations made therein, by writing his initials in close proximity thereto; if the alterations or interlineations exceed ten, it shall be the duty of the said officers to furnish written copies.

Remuneration to returning officer for dividing into polling sub-divisions.

11. In case it is necessary for any returning officer to divide any municipality or any part thereof into polling sub-divisions, he shall be paid by the treasurer of the municipality a reasonable allowance therefor.

Nomination need not be in the open air, nor in cities, towns or villages, need polling places be 100 yards distant.

12. So much of section twenty-three of "The Election Law of 1868," as requires that the nomination shall be held in the open air, and also so much of section twenty-eight of the said Act as requires that polling places in cities, towns, and incorporated villages shall be more than one hundred yards distant from each other, is hereby repealed.

Voters may be required to make oath as voter, and enfranchised Indians may vote.

13. Whereas doubts have been raised whether the provisions of law respecting the revision of voters' list dispense with the obligation of any person offering to vote at any election, to take the oath prescribed by section forty-one of The Election Law of 1868, and respecting the right of enfranchised Indians to vote, it is hereby declared that every such person shall, if required by any candidate, or the agent of any candidate, or by the Deputy Returning Officer himself, take the oath or affirmation prescribed by the said section, as amended by section six

of

of "the Election Act of 1873," or such other similar oath or affirmation as may be required by law, and that every Indian duly enfranchised, and who is otherwise qualified, is entitled to vote, subject to the same provisions and restrictions as other persons in the Electoral Division.

14. Where any territory is added for municipal purposes to any city, town, or village belonging to, or constituting an electoral division other than that to which such territory previously belonged, or when a town with additional territory is erected into a city, or a village with additional territory is erected into a town, or in case a village is formed including territory which belonged to an electoral district other than that to which the village belongs, and an election takes place previous to voters' lists, including the names of persons entitled to vote in such territory, being made out for the city, town, or village, or before such lists are certified by the County Judge, then all persons who would have been qualified as electors if such territory remained separate from the city, town, or village and if the election had been for the electoral division to which such territory formerly belonged, shall be entitled to vote in the city, town or village.

The case of new territory added to city, town or village, or a new city, town or village erected with added territory, and no voters' lists including such new territory;

15. In all such cases (or in case a voters' list embraces territory comprising portions of two or more electoral districts) the returning officer shall extract from the last filed, or certified voters' list of the municipality or municipalities to which such territory formerly belonged containing the names of voters entitled to vote in respect of such territory, the names of the several voters in such lists entitled to vote in such territory, and shall place such names in supplementary lists to be signed by the Returning Officer, and to be delivered by him to the proper Deputy-Returning Officers, for the purpose of enabling the persons named in such lists to vote at the said Election. Every person voting in respect of a supplementary voters' list shall, if required, take the oath or affirmation in form "A" to this Act annexed in lieu of the oath in form "O" prescribed by the forty-first section of the Election Law of 1868. Municipal electors, similarly qualified in respect of such territory, shall also be entitled to vote at a municipal election occurring after the addition, and like proceedings, as near as may be, shall be taken in that behalf.

duty of returning officer in above cases of added territory as to voter lists;

voters oath

municipal elections.

16. No election shall be held invalid by reason of a failure to hold a poll at any place appointed for holding a poll if it appears to the trial having cognizance of the question that such failure did not affect the result of the election.

Election not to be void from failure to hold poll at place appointed, if the result not affected.

17. Any candidate nominated may withdraw at any time after his nomination and before the opening of the poll, by filing with the Returning Officer a declaration in writing to that

W^r candidates.

that effect, signed by himself, and any votes cast for the candidate who shall have so withdrawn shall be null and void; and in case after the withdrawal there should remain but one candidate, then it shall be the duty of the Returning Officer to return as duly elected the candidate so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll, if such withdrawal be filed on the polling day.

Polls and polling places in Algoma.

18. In the District of Algoma, at any election for a member to serve in the Legislative Assembly, polls shall be opened and held at the following places in the said district, namely:—Killarney, Spanish River, Algoma Mills, Little Current, Bruce Mines, Sault Ste. Marie, Prince Arthur's Landing, Fort William, Manitoulin Island, Silver Islet, and in such additional places, if any, as the Lieutenant-Governor in Council may from time to time direct. The returning officer shall establish as many polling places at the places before mentioned as he may consider requisite.

In Algoma,
the periods
fixed between
days of procla-
mation and
nomination,
and for hold-
ing polls, and
return day of
writ.

19. In the said district, there shall be at least fifteen, and not more than thirty days, between the day that the proclamation for the election is posted up, and the day of nomination, and the day for holding the polls shall be on the twenty-first day after the day of nomination. No nomination or poll shall be held in the District of Algoma, except during the months of June, July, August, September or October; and the return day of the writ shall be fixed so as to admit of the provisions of this section being observed.

Provisions for
municipalities
in districts
wherein an
assessment roll
but no voters'
list filed or
certified,

20. In any Municipality or Township in the Electoral Divisions of North Victoria, East Peterborough, North Hastings, North Renfrew, South Renfrew, and Muskoka and Parry Sound where there is an assessment roll, but for which no voters' lists containing the names of the voters in such Municipality or Township have been filed with the Clerk of the Peace, or certified by the County Judge, the Returning Officer shall, upon receipt of the writ, procure from the Clerk of the Municipality an alphabetical list or lists of all persons entitled to vote in such Municipality or Township, or in the polling sub-divisions thereof (if the Municipality or Township is divided into polling sub-divisions); and the Clerk shall forthwith, upon being requested so to do, furnish the Returning Officer with such list or lists, having first certified to the correctness thereof before a Justice of the Peace; and every list of voters so prepared, or a similar list otherwise procured by the Returning Officer, at the expense of the Clerk, in case of the failure of the Clerk to furnish the same within a reasonable time, shall be the voters' list to be used at the election for such Municipality or Township or polling sub-division, and in every Municipality or Township in the said districts in which there is an assessment roll, it shall be necessary that the name of the elector shall appear upon

upon the list of voters prepared under this Act, or under the Voters' Lists Act of 1874, and in such case the same provisions as to qualification of voters and other matters shall apply as in other electoral districts, and the oath or affirmation to be required of voters shall be the same.

21. In such Municipalities, Townships, and places in the electoral divisions mentioned in the preceding section as have no assessment roll, and in all parts of the electoral district of Algoma, the persons entitled to vote at elections for Members of the Legislative Assembly, shall be every male person of the full age of twenty-one years, being a subject of Her Majesty by birth or naturalization, and not otherwise disqualified, who is at the time of the election actually and *bona fide* the owner of real estate in the electoral district for which he claims to vote, of the value of two hundred dollars or upwards, or who is at the time of the election a resident householder of such place, and having been such owner or householder for the six months next preceding the election ; and such voter in such district or place may be required to take the oath in form "B" to this ^{and voters'} *oath*; Act annexed in lieu of that in form "O" prescribed by the said forty-first section of "The Election Law of 1868."

22. In the said District and in any such place, the elector claiming to be entitled to vote shall declare his name, place of residence and occupation or calling, and also the property in respect of which such person claims to be entitled to vote, and whether he so claims as owner, tenant, or occupant of such property ; and the Deputy Returning Officer shall cause the said particulars to be entered upon a list in the same manner as is prescribed in the fourteenth section of "the Ballot Act of 1874," with reference to the tendered voters' list, and the list herein provided for shall be dealt with in the same manner as the tendered voters' list is directed to be dealt with by the said Act.

23. The Lieutenant-Governor may cause the writs for the Electoral Divisions of the District of Algoma, and of Muskoka and Parry Sound, respectively, to be directed to the Sheriff of Algoma, or the Registrar of Muskoka, or of Parry Sound, or to such other Returning Officer as he thinks fit, and may direct the payment to the said Returning Officers out of the Consolidated Revenue Fund of such sums (over and above the allowance authorized by "the Election Law of 1868,") as may be required to pay the expenses reasonably incurred by the Returning Officers, and by the other officers and clerks in conducting the Election, and reasonable fees and allowances for any extraordinary services rendered by them thereat.

24. In Cities, unless the Municipal Council shall provide suitable polling places at their own expense, the Returning Officers shall provide the same ; and the expense thereof, not exceeding eight

Writs for Divisions of Algoma, Muskoka and Parry Sound may be directed to Sheriff of Algoma or others—

payment to returning officers, &c.

In cities, unless the Council provide proper polling places,

the returning officer shall ; expenses thereon.

Votes of Deputy Returning Officer and Poll Clerk

eight dollars for each polling place, shall be paid by the Treasurer of the City, upon the order of the Returning Officer.

25. Every Deputy Returning Officer and poll clerk, who is otherwise qualified to vote at an election for a member to serve in the Legislative Assembly, shall be hereafter entitled to vote at such election ; and so much of section three of the Election Law of 1868 as prohibits the said officers from voting is hereby repealed.

Deputy-Returning officers and agents may vote at polling place where they are employed.

26. The Returning Officer on the request of any elector entitled to vote at one of the polling stations who shall be appointed Deputy Returning Officer or poll clerk, or who shall be named the agent of any of the candidates for a polling station other than the one where he is entitled to vote, shall give to such elector a certificate that such Deputy Returning Officer, poll clerk or agent is entitled to vote at such election at the polling station where such election shall be stationed during the polling day, and such certificate shall also state the property or other qualification in respect to which he is entitled to vote, and on the production of such certificate such Deputy Returning Officer, poll clerk, or agent shall have the right to vote at the polling station where he shall be placed during the polling day instead of at the polling station of the polling sub-division where he would otherwise have been entitled to vote, and the Deputy Returning Officer shall attach the certificate to the voters list ; but no such certificate shall entitle any such elector to vote at such polling station unless he has been actually engaged as such Deputy Returning Officer, polling clerk, or agent during the day of polling, or shall entitle any agent to vote who is disqualified under section three of the Election Law of 1868.

SCHEDULE.

FORM A, REFERRED TO IN THE FIFTEENTH SECTION OF THIS ACT.

To be taken when additions have been made to a city, town or village, or a new village has been formed composed of territory situate in two or more Electoral Districts.

You swear (or solemnly affirm), that you are the person named (or purporting to be named by the name of) on the supplementary list of voters now shown unto you (*showing the list to the voter*), that at the time of the last final revision and correction of the Assessment roll on which this list is based for the township of (as the case may be) you were (and if the fact be so still are), actually, truly, and in good faith possessed to your own use and benefit as owner, or tenant

tenant, or occupant (*as the case may be*) of the real estate in respect of which your name (or the said name of) is entered on the said supplementary list of voters, (*or if the party has parted with such possession, then insert these words* "that you are now a resident of this Electoral Division,") and as such entitled to vote at this election; that you are a subject of Her Majesty by birth or naturalization; that you are of the full age of twenty-one years; that you have not voted before at this election, either at this or any other polling place; and that you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith; and that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election. So help you God.

FORM B REFERRED TO IN THE TWENTIETH SECTION OF
THIS ACT.

To be taken by voter in certain places where there are no voters lists, and also in Algoma.

You swear (*or solemnly affirm*) that you are (*name of voter*); that you are actually, truly and in good faith possessed to your own use and benefit as owner of real estate in this Electoral District of the value of \$200 or upwards (*or that you are actually truly and in good faith a resident householder in this Electoral District*); that you have been such owner (*or resident householder, as the case may be*), for the six months next preceding this Election, and are entitled to vote at this Election; that you are a subject of Her Majesty by birth or naturalization; that you are of the full age of twenty-one years; that you have not voted before at this Election, either at this or any other Polling place; and that you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this Election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith; and that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting at this Election. So help you God.

38 VICTORIA, CAP. 2.

An Act to re-adjust the Representation in the Legislative Assembly.

[Assented to 21st December, 1874.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Legislative Assembly shall be composed of eighty-eight members; and the Province shall, for the purposes of the election of members to serve in the Legislative Assembly, continue to be divided into the several Electoral Districts established by "The British North America Act," each represented as it now is, except where altered by this Act.

Huron.

2. The present division of the County of Huron into two ridings is hereby abolished, and the said county shall be divided into three ridings to be called respectively the South, the East and the West Riding, each of which shall be an electoral district, and shall return one member:

The South Riding to consist of the Townships of Tuckersmith, Usborne, Stephen, Hay and Stanley, and that portion of the Township of Goderich south of the line known as "the Cut Line" and Huron Road, and the Village, otherwise called the Town of Seaforth, and the Village of Exeter;

The West Riding to consist of the Townships of Asbfield, Wawanosh (East and West) Colborne, and those parts of Hullett and Turnberry respectively, which lie west of the road commonly called the Gravel Road, and that part of the Township of Goderich north of the said Huron Road and "Cut Line," and the Town of Goderich, and the Village, otherwise called the Town, of Clinton, and the Village of Wingham;

The East Riding to consist of the Townships of Howick, Grey, Morris, McKillop and those parts of Hullett and Turnberry respectively, which lie east of the road commonly called the Gravel Road, and the Village of Brussels.

Bothwell

3. The Electoral County of Bothwell is hereby abolished.

Kent.

4. The County of Kent as constituted for municipal purposes shall be divided into two ridings, and each riding shall return one member;

The East Riding to consist of the Townships of Zone, Camden (with the Gore thereof) Oxford, Howard, and Harwich, and the Town of Bothwell, Village of Blenheim and Dresden;

The West Riding to consist of the Townships of Romney, East Tilbury, Raleigh, Dover East, Dover West, and Chatham,

5.

5. The County of Lambton as constituted for municipal purposes shall be divided into two Ridings, and each Riding shall return one member.

The East Riding of Lambton to consist of the Townships of Bosanquet, Warwick, Plympton, Brooke and Euphemia, and the Villages of Wyoming, Watford, and Forest.

The West Riding of Lambton to consist of the Townships of Sombra, Dawn, Moore, Enniskillen, and Sarnia, the Towns of Sarnia and Petrolia, and the Village of Oil Springs

6. The County of Essex shall be divided into two Ridings, and each Riding shall return one Member;

The North Riding of Essex to consist of the Townships of Tilbury West, Rochester, Maidstone, Sandwich East, and Sandwich West, the Towns of Windsor and Sandwich, and the Village of Belle River;

The South Riding of Essex to consist of the Townships of Mersea, Gosfield, Colchester, Malden, and Anderdon, the Town of Amherstburgh and the Village of Leamington, and the Municipality of Point au Peleè Island.

7. The Township of Mono (taken from Cardwell), the Township of Melanethon (taken from South Grey), the Township of Amaranth (taken from North Wellington), the Township of East Garafraxa, and the Town of Orangeville (both taken from Centre Wellington), and the Township of Mulmur (taken from South Simcoe), shall form a provisional municipal county, and an electoral district, to be called the County of Dufferin, and shall return one member.

8. The Electoral District of the County of Cardwell shall consist of the Townships of Caledon, Albion and Adjala, (now belonging to the said County), and the Township of Tecumseth (taken from South Simcoe) and the Village of Bolton.

9. The present two ridings of the County of Grey are hereby abolished; and the territory hereinafter mentioned, being that portion of the County of Grey which remains after setting apart the County of Dufferin, shall be divided into three ridings, to be called respectively the South, the East, and the North Riding of the County of Grey, each of which Ridings shall return one member:

The South riding to consist of the Townships of Bentinck Glenelg, Normanby and Egremont, and the Town of Durham;

The East riding to consist of the Townships of Osprey, Collingwood, Proton, Artemesia, Euphrasia and Holland;

The North riding to consist of the Townships of St. Vincent, Sydenham, Sullivan, Derby, Keppel and Sarawak, and the Towns of Owen Sound and Meaford.

10. The present ridings of the County of Wellington are hereby abolished, and the territory, being that portion of the County

County of Wellington which remains after constituting the said County of Dufferin, shall be divided into three ridings, to be called respectively the South, the Centre and the West Riding of the County of Wellington, each of which shall return one member :

The South Riding to consist of the Townships of Guelph, Puslinch and Eramosa, and the Town of Guelph ;

The Centre Riding to consist of the Townships of Pilkington Nichol, Erin, West Garafraxa and Luther, and the Villages of Fergus and Elora ;

The West Riding to consist of the Townships of Arthur, Minto, Maryborough, and Peel, the Town of Palmeton, and the Village of Mount Forest, Harriston, Arthur, Clifford, and Drayton.

Muskoka and Parry Sound.

11. The territory bounded on the south by the middle of the main channel of the river Severn and a line formed by the southerly boundaries of the Townships of Morrison and Ryde, the easterly boundary of Ryde, the southerly boundary of the Township of Oakley, the easterly boundary of Oakley and the southerly boundary of the Township of Ridout ; bounded on the east by the Bobcaygeon road ; on the north by lake Nipissing and the middle of the main channel of the French River ; and on the west by the waters of the Georgian Bay, and including therein the islands in the Georgian Bay lying west of the said territory and adjacent thereto, shall form an electoral division, to be called the Electoral District of Muskoka and Parry Sound, and shall return one member.

Haliburton and Victoria.

12. The North Riding of the County of Victoria shall include the Provisional County of Haliburton, and the Township of Longford ; together with the townships which have heretofore constituted the North Riding of Victoria, except the townships that were taken from Simcoe and are by this Act included in the new Electoral District of Parry Sound and Muskoka ; the townships hereafter to constitute the said North Riding of Victoria being as follow : Eldon, Carden, Dalton, Fenelon, Bexley, Laxton, Digby, Longford, Somerville, Lutterworth, Anson, Hindon, Snowdon, Glamorgan, Monmouth, Cardiff, Minden, Dysart, Dudley, Harcourt, Stanhope, Guilford, Harburn, Bruton, Sherborne, Havelock, Eyre, Clyde, McClintock, Livingston, Lawrence and Nightingale, and any Villages lying within the municipal boundaries of these Townships, or any of them.

Simcoe.

13. The present two ridings of the County of Simcoe are hereby abolished, and the territory hereinafter mentioned, being that portion of the County of Simcoe which remains after constituting the said electoral divisions of Dufferin, Cardwell, Parry Sound and Muskoka shall be divided into three ridings, to be called respectively, the East, the West, and the South Riding of the County of Simcoe, each of which shall return one member :

The

The East Riding to consist of the Townships of Tiny, Tay, Matchedash, Orillia, Medonte and Oro, and the Town of Orillia;

The West Riding to consist of the Townships of Vespra, Flos, Sunnidale and Nottawasaga, the Towns of Barrie and Collingwood, and the Village of Stayner;

The South Riding to consist of the Townships of Tossoronto, Essa, Innisfil and West Gwillimbury, and the Village of Bradford and Alliston.

14. The East Riding of the County of Peterborough shall consist of the Townships of Otonabee, Douro, Asphodel, Dummer, Belmont, Methuen, Burleigh, Anstruther and Chandos, and the Village of Ashburnham.

15. The West Riding of the County of Peterborough shall consist of the Townships of South Monaghan, North Monaghan, Smith, Ennismore, Harvey, Galway and Cavendish, the Town of Peterborough, and the Village of Lakefield.

16. The Townships of Hagarty, Richards, Sherwood, Burns, Renfrew, and Jones, now belonging to the north riding of Renfrew, shall be added to, and included in, the South Riding of the County of Renfrew.

17. The Town of Brockville and the Township of Elizabeth-Brockville, town (heretofore constituting the electoral district of the Town of Brockville) shall, with the township called Front of Yonge, and the township called Rear of Yonge and Escott (taken from the south riding of Leeds), constitute the electoral district of Brockville.

18. The Electoral District of Niagara is abolished, and the Niagara Town and Township of Niagara are added to the Electoral District of the County of Lincoln.

19. The East Riding of Northumberland shall include the whole of the Village of Hastings; the West Riding of the County of York shall include the whole of the Village of Richmond Hill; the North Riding of Lanark shall include the whole of the Village called Carleton Place; and the South Riding of Bruce shall include the Village of Lucknow.

20. The County or Riding of a County in which any municipality was heretofore situate for the purpose of Registry of title to lands shall continue to be the proper County or Riding of the County respectively of such municipality for such purpose, notwithstanding any change made by this Act with respect to Electoral Districts.

21. Where any territory belongs, or hereafter is added, for municipal purposes, to a city which is an electoral division, such territory added to city having two or more electoral divisions.

electoral division shall include the territory so belonging or added for municipal purposes.

East North-
umberland.
West York.
North Lanark.
South Bruce.

22. In case of a city to which territory belongs, or hereafter is added, for municipal purposes, is divided into two or more electoral divisions, the territory so belonging or added to the city for municipal purposes, shall belong to the division to which it is adjacent ; or in case a part of such territory is adjacent to one division, and another part to another division, each part shall (having regard to the dividing line between the two divisions and the continuation thereof) belong to the electoral division to which such part is adjacent.

Territory
added to town
or village.

23. Where any territory belongs, or hereafter is added, for municipal purposes to any town or village belonging to an electoral division other than that to which such territory previously belonged : or where a town, with additional territory, is erected into a city, or a village with additional territory is erected into a town, the territory so belonging or added for municipal purposes, shall belong to the electoral division of which the town or village forms a part.

Towns and
villages not
expressly
attached to
any electoral
division.

24. Every town and incorporated village not expressly attached by this or any other Act of the Legislature to an electoral district, is, for electoral purposes, to be taken as part of the county to which such town or village belongs for municipal purposes, and in case the county is divided into ridings, such town or village shall be part of that riding to which it is adjacent, or within which it is situate.

Town or vil-
lage composed
of two ridings.

25. Every town or incorporated village composed of portions of two or more ridings of a county, and not expressly included within some electoral district, shall belong to that riding which, by the census then last taken under the authority of the Government of the Dominion of Canada and published in the *Canada Gazette*, had the smaller population : For the purpose of this section, every electoral division to which any portion of a county is attached, shall be deemed a riding of that county.

Town or vil-
lage composed
of parts of two
counties.

26. In case any town or incorporated village situate in part within two or more counties, is attached to a union of counties for municipal purposes, then the provisions of the two next preceding sections of this Act shall be applied as if such union constituted one county, and as if the electoral divisions into which the union is divided were ridings of that county ; and in case any town, situate as in either of the said two next preceding sections mentioned, is not attached to any county or union of counties for municipal purposes, the provisions of the said sections and of this section shall apply thereto, except that wherever in the said sections "municipal" occurs, the word "judicial" shall be substituted therefor.

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